S. HRG. 99-196

CHILDREN'S JUSTICE ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON CHILDREN,
FAMILY, DRUGS AND ALCOHOLISM

OF THE

COMMITTEE ON
LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

S. 140

TO AMEND THE CHILD ABUSE AMENDMENTS OF 1984 TO ENCOURAGE STATES TO ENACT CHILD PROTECTION REFORMS WHICH ARE DESIGNED TO IMPROVE LEGAL AND ADMINISTRATIVE PROCEEDINGS REGARDING THE INVESTIGATION AND PROSECUTION OF SEXUAL CHILD ABUSE CASES

MAY 2, 1985

Printed for the use of the Committee on Labor and Human Resources

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CONTENTS

STATEMENTS

THURSDAY, MAY 2, 1985

	Page
Bulkley, Josephine, project director, Child Sexual Abuse Law Reform Project, National Legal Resource Center; Debra Whitcomb, principal investigator, ABT Associates, Inc., Cambridge, MA; and Jack E. Yelverton, executive director, National District Attorneys' Association, accompanied by Robert "Bud" Cramer, Huntsville, AL	49
Prepared statement	55
Cranston, Hon. Alan, a U.S. Senator from the State of California	3
Prepared statement	7
Denton, Hon. Jeremiah, a U.S. Senator from the State of Alabama, prepared statement	86
Dodd, Hon. Christopher J., a U.S. Senator from the State of Connecticut, prepared statement	34
Gardner-Frum, Miriam, coordinator, Coordinated Crisis Intervention Program of the Child Guidance Clinic, Meriden, CT	39
Prepared statement	46
Grassley, Hon. Charles E., a U.S. Senator from the State of Iowa, prepared statement	21
Hawkins, Hon. Paula, a U.S. Senator from the State of Florida, prepared statement	2
Landis, Andrea, founder, Justice for Sexually Abused Children, Miami, FL	26
Rae-Grant, Quentin, M.B., Ch.B., F.R.C.P. C), professor and chairman, department of behavorial science, University of Toronto, prepared statement	124
Showers, Margi, residential services director, Youth and Shelter Services, Ames, IA; and Kee MacFarlane, Child Sexual Abuse Youth and Shelter Services Diagnostic Center, Children's Institute International, Los Angeles, CA	107
Prepared statement	110
Whitcomb, Debra, principal investigator, ABT Associates, Inc., Cambridge, MA, prepared statement	67
Yelverton, Jack E., executive director, National District Attorneys Association, prepared statement	89

CHILDREN'S JUSTICE ACT

THURSDAY, MAY 2, 1985

U.S. SENATE,
SUBCOMMITTEE ON CHILDREN,
FAMILY, DRUGS AND ALCOHOLISM,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:07 a.m., in room SD-430, Dirksen Senate Office Building, Senator Paula Hawkins (chairman of the subcommittee) presiding.

Present: Senators Hawkins, Kerry, Grassley, and Nickles.

Also present: Senator Cranston.

OPENING STATEMENT OF SENATOR HAWKINS

Senator HAWKINS. Good morning. Today's hearing will focus on the Children's Justice Act and the need to enact reforms in order to guarantee our Nation's sexually abused and exploited children that we will heed their cry for help.

After years of fighting to get this problem acknowledged and discussed in public, we have succeeded in increasing the public's awareness of this serious crime, and its long-lasting effects on its victims. We may have succeeded in getting people to stop whispering about sexual child abuse and begin to acknowledge that the crime does indeed happen in our neighborhoods, in our communities, and in perhaps even our own families. But the vast majority of the American public is still ignorant about how inadequate our administrative and judicial system is after the child victim makes that cry to us for help.

These children deserve to be heard. I want to read from some of the letters that I have received from child victims of sexual abuse, using their own words to describe their feelings about the administrative and judicial proceedings after they made that cry for help.

This letter reads:

DEAR SENATOR HAWKINS: I have never written to a Senator before, but I recently read an article about your personal testimony at a Conference on Sexual Victimization of Children, and I just had to write to you. You give me hope that I will someday be able to talk about my father's sexual abuse of me without being shamed and feeling somehow responsible.

Until I stopped drinking 4 years ago, I had forgotten his abuse and the rest of my childhood. I am now 34 years old, and for 13 of those years, I was drinking and drunk—and I did not even know why. I thought there was something wrong and bad within me. Now I am in therapy and I am learning that there is something wrong, and it is not me. I am worth living and loving.

I guess I just want to say that when I read about someone who has gained the strength and love to share that terrible secret and feel stronger, I feel stronger

about myself. That is the key—education and talking to each other. It is the secrets that kill us. Thank you.

It is signed from a girl in Anchorage, Alaska. Sometimes the victims have a terrible time once they report.

DEAR SENATOR HAWKINS: I heard of a theory which says the sacrifice of a few is justified when it is for the good of many—a theory I did not subscribe to, especially when I am the one being sacrificed.

I understand you are pushing for reform, better laws in this area. But are you aware of what the victim has to go through? How familiar are you with the case that is taking place in Tampa, Florida, right now, the one where one of the main offenders had been operating his pornography ring while he was in prison? This is the case I am connected with.

My story begins in May 1983, 1 month before I graduated from high school, 3 months before my 18th birthday. In May 1983, an old family friend was arrested. Not long after that, I was labelled a victim of child pornography. Since that time, I have been treated with nothing but contempt and disrespect by first the police department and then the FBI.

Some examples: In August of 1983, I received a subpoena to the prosecuting attorney's office in Seattle, Washington, where the trial began. The detective spent an hour and a half with me, trying to get information from me. Again, in August of 1983, I asked about journals and diaries that were stolen when the defendant's home was searched. We had been using his garage as a storage area. The defense attorney informed me that he had read these personal items; the prosecuting attorney told me they would be returned in just two weeks.

From August to April 1984, my father and I are constantly trying for the return of my possessions. We did this through phone calls to the prosecutors and letters to the defense attorney. The stolen property is never returned.

In April 1984, I am subpoenaed again, this time from the FBI. I am left to find my own way back to Tampa, Florida. I attend school in Southern California.

In April 1984, in the courtroom before a grand jury, I am asked to identify myself in pictures. After I do, the attorney asking me the questions passes the pictures around to the grand jury while I am sitting on the stand. My father also was brought to Tampa. He missed days of work and was only asked to give ten minutes of testimony.

In July of 1984, an FBI agent calls and says he is coming to my home in Seattle. I wait several hours, only to find that they brought the wrong pictures; they were of someone else, and they were sorry.

On August 9, 1984, one year later, after trying all summer, I finally got through to the prosecuting attorney, who told me that the journals were destroyed.

On several occasions, I have been threatened with prison for not cooperating. Not once has anyone expressed any concern for my well-being which, over the past year, has been hampered by violent nightmares.

Tell me, Mrs. Hawkins, is this usual treatment for a victim of child pornography? Mr. Reagan is on television now saying there is a tradition in this country that you are innocent until proven guilty. What am I guilty of to deserve this kind of treatment—being 10 years old; a decade after my birth, being taken advantage of by a trusted family friend? I apologize for neither.

So I say we have a lot of progress to make.

[The prepared statement of Senator Hawkins follows:]

PREPARED STATEMENT OF SENATOR PAULA HAWKINS

Good morning, today's hearing will focus on the Children's Justice Act and the need to enact reforms in order to guarantee our nation's sexually abused and exploited children that we will heed their cry for help.

After years of fighting to get this problem acknowledged and discussed in public, we may have succeeded in increasing the public's awareness of this serious crime and its long lasting effects upon its victims. We may have succeeded in getting people to stop whispering about sexual child abuse and begin to acknowledge that the crime does indeed happen in their neighborhoods, in their communities, in perhaps even in their own families. But the vast majority of the American public is still ignorant about how inadequate our administrative and judicial system is after the child victim makes that cry for help.

These children deserve to be heard. I want to read from some of the letters I have received from child victims of sexual abuse. Using their own words to describe their

feelings about the administrative and judicial proceedings after they made that cry for help.

People are shocked by the increasing number of incidences of sexual child abuse. But the public is still unaware of how few incidences are actually reported, how few cases are ever thoroughly investigated, how few cases are actually prosecuted, how few child molesters are ever successfully convicted and how few of these convicted child molesters actually are imprisoned.

Given the additional trauma experienced by young children who must undergo multiple interviews, depositions and questioning on such a personal and painful subject. Children who are often treated as if they had something to be ashamed of, rather than their abusers, is it any wonder why more children don't report their abuse?

Given the increased workload of child protection caseworkers, the difficulty in obtaining answers from a frightened and terrified child, the tendency to "burn out" in a high stress job, and the fact that the child protection worker's level of pay is less than a garbage collector, is it any wonder that many suspected incidences of child abuse are not fully and thoroughly investigated.

Given the misconceptions about children's testimony and archaic legal impediments, such as corroboration, prior competency and grueling cross examination is it any wonder that prosecutors are unwilling to take a case to court that is based solely on the child's testimony?

Given the misuse of the right of confrontation and to cross-examination by defense attorney's until it becomes not a method of determining the truth but a means to destroy evidence, the crucial testimony of the child, is it any wonder that so few child molesters ever get convicted?

Given the trend towards treatment and counseling of child molesters and the fact that so little is known about the effectiveness of these rehabilitative efforts, is it any wonder that many convicted child molesters use the criminal justice system as a revolving door and molest children time and time again?

These disturbing trends must be reversed. Teaching children to speak out and report their abuse is just a first step, we need to be able to guarantee them that they will not be further abused and traumatized by the administrative and judicial system after they make that initial cry for help.

Senator HAWKINS. Our first witness today is a very good friend of ours, Senator Alan Cranston, who has a statement for the record.

I welcome you here, Senator Cranston of California.

STATEMENT OF HON. ALAN CRANSTON, U.S. SENATOR, STATE OF CALIFORNIA

Senator CRANSTON. Thank you very much, Madam Chairwoman.

I cannot help but note that I thought I was coming to the Labor Committee, and here, I see the author of the Hawkins amendment on the budget and the author of the Grassley amendment on the budget sitting in this committee.

Senator GRASSLEY. Just coincidence.

Senator CRANSTON. I am pleased to have this opportunity to present testimony on S. 140 and to share with you some of the recommendations and findings from a report issued a few weeks ago by the California Attorney General's Commission on the Enforcement of Child Abuse Laws.

I have a longer prepared statement that I would ask be placed in the hearing record.

Senator HAWKINS. So ordered.

Senator CRANSTON. Let me first recognize the tremendous work which both the new chairwoman of this subcommittee, Senator Hawkins, and the ranking minority member, Senator Dodd, have done in bringing national attention to the problems of sexual abuse of young children. The forum on this issue held last year by the Senate Children's Caucus, which both Senator Dodd and Senator

Hawkins participated in played an important role in focusing attention on a subject which has too often been hidden from public view.

The legislation which Senator Dodd authored last year, enacted as part of the continuing resolution, which established a Federal children's trust fund to help develop child abuse prevention programs also promises to expand the resources available for these important activities.

Senator Grassley has also been a leader in strengthening child pornography laws, and I know that Senator Kerry will be a very effective member of this subcommittee on these matters and others.

As a former chairman of the Child and Human Development Subcommittee of the Senate Labor and Human Resources Committee—one of the predecessors of this subcommittee—I have had a longstanding interest and concern about the problems relating to child abuse and neglect, including sexual abuse.

In 1978, I coauthored with Senator Percy legislation which established the first Federal program focused specifically on the problem of sexual abuse of children.

What seemed in 1978 to be an important problem appears today to have represented merely the tip of an iceberg. The growing statistics on incidence of sexual abuse of children, regardless of whether they represent merely better reporting procedures or an increase in the cases themselves, demonstrate beyond any doubt that more needs to be done by government entities at every level to deal effectively with the devastating abuse of our children.

The 1978 law focused primarily on providing treatment for the young victims of sexual abuse. The legislation proposed by Senator Hawkins, the proposed Children's Justice Act, moves a step further by addressing another very important element of the overall problem relating to sexual abuse cases—the further victimization of the child victims through an abusive judicial process that fails to recognize the special nature of the crime involved and the additional trauma inflicted upon the children, who are often the principal sources of evidence in the judicial proceedings brought against the perpetrators of the sexual abuse.

This new focus is greatly needed. The California Attorney General's Commission on Enforcement of Child Abuse Laws has recently issued a report containing a series of findings and recommendations focused primarily on how the criminal justice system could be made to work better to protect children who are the victims of sexual and physical abuse, consistent with constitutional rights of defendants. I will be working with John Van de Kamp, the California attorney general, to bring about the implementation of these recommendations, and I will be introducing legislation to carry out several of the recommendations with respect to various Federal laws which conflict with State child abuse reporting requirements.

In addition, many of the recommendations contained in the California Attorney General's Commission report are fully consistent with the purposes of the legislation which Senator Hawkins has introduced, S. 140. I have outlined some of these recommendations in my prepared statement, and I ask that a copy of the executive sum-

mary of the commission's recommendations be included in the hearing record at the conclusion of my remarks.

I have submitted a copy of the full report to the subcommittee's files. I believe that the chairwoman has already received a letter from Attorney General Van de Kamp in support of S. 140. I would like to join in that support, and I request that my name be added as a cosponsor of this legislation.

Senator HAWKINS. Thank you.

Senator CRANSTON. At this point, the recommendations in the California commission's report remain simply recommendations. Enactment of S. 140 will, I believe, provide a real incentive and stimulus to move them from the recommendation stage to the implementation stage.

Finally, Madam Chairwoman, I have several suggested amendments to S. 140 that are appended to my prepared statement, to address additional areas of concern, highlighted in the California commission's report. Repeatedly, the commission stressed the need for development of appropriate procedures, training materials, and research into the various aspects of the problem of child abuse. I believe that the Federal Government can and should play an expanded role through the National Center on Child Abuse and Neglect, to assist the States in their efforts in this area. The National Center for Child Abuse and Neglect was established to serve as a clearinghouse on information in this field, and to help develop training materials and procedures to be used by individual States and localities. Accordingly, the amendment I am proposing to S. 140 would direct the National Center to become an active partner in State efforts to develop programs consistent with the purposes of S. 140. This amendment would require the National Center to compile and disseminate within 6 months of the date of enactment information on the various approaches already developed or in the process of being developed; appropriate training materials for professionals involved at all points of the criminal justice system, from law enforcement personnel to judges themselves, and to support an ongoing research effort in this area, focusing on identifying promising approaches. This amendment would also require the National Center to evaluate the activities carried out pursuant to the provisions of S. 140 and to report to Congress on the effectiveness of these activities. Finally, my amendment would modify S. 140 to provide explicitly that the new funds could be distributed to State law enforcement agencies. As long as child abuse is regarded primarily as a matter for the child welfare or social service agencies, rather than for law enforcement agencies as well, the changes that are contemplated under S. 140 are not likely to move forward with the speed they require.

As I noted, attached to my testimony is an amendment to carry out the purposes that I have outlined. I would welcome your input on this amendment, Madam Chairwoman and members of the committee, and hope that our staffs can work together to develop this concept into a form that would be acceptable to the subcommittee.

Madam Chairwoman and members of the subcommittee, I very much appreciate this opportunity to share with you these recommendations and the findings from the California Attorney General's Commission on the enforcement of child abuse laws. I am

pleased to lend my support and suggestions to your efforts to bring about the important and necessary changes we are seeking in how the criminal justice system deals with protecting the interests of children who have been the victims of abuse.

I thank you very much.

Senator HAWKINS. Thank you very much, Senator. We appreciate your testimony and your suggestions and look forward to working with you.

Senator Grassley was with us, but he has an amendment in the Senate right now that he is managing. We will excuse Senator Cranston at this time, and we will enter Senator Grassley's statement and note his keen interest in this subject.

[The prepared statements of Senators Cranston and Grassley follow:]

Testimony of Senator Alan Cranston
before the
Subcommittee on Children, Family, Drugs, and Alcoholism
of the
Senate Committee on Labor and Human Resources
on
S. 140, the proposed "Children's Justice Act"
May 2, 1985

I am pleased to have this opportunity to present testimony on S. 140 and to share with you some of the recommendations and findings from a report issued a few weeks ago by the California Attorney General's Commission on the Enforcement of Child Abuse Laws.

First, however, I want to recognize the tremendous work which both the new Chairwoman of this Subcommittee, Senator Hawkins and the Ranking Minority Member, Senator Dodd, have done in bringing national attention to the problems of sexual abuse of young children. The forum on this issue held last year by the Senate Children's Caucus, which both Senator Dodd and Senator Hawkins participate in, played an important role in focusing attention upon a subject which has too often been hidden from public view. The legislation which Senator Dodd authored last year, enacted as part of the Continuing Resolution, which established a federal children's trust fund matching grant program to help encourage states to develop programs to prevent child abuse also promises to expand the resources available for these important activities.

1978 Legislative Efforts

As the former chairman of the Child and Human Development Subcommittee of the Senate Labor and Human Resources Committee -- one of the predecessors of this subcommittee -- I have had a long standing interest and concern about the problems relating to child abuse and neglect, including sexual abuse.

In 1978, I co-authored with Senator Percy legislation which established the first federal program focused specifically on the problem of sexual abuse of children. That measure, which was enacted as part of Public Law 95-266, established a small grant program under the federal Child Abuse Prevention and Treatment Act to help establish programs to provide services and treatment to children who were the victims of sexual abuse and to help develop programs to prevent such abuse. Although the separate funding for that program was eliminated in the 1981 Budget Reconciliation legislation, I am pleased to say that we were able to restore the separate funding authorization in last years Child Abuse Amendments, Public Law 98-457.

What seemed in 1978 to be an important problem appears today to have represented merely the tip of an iceberg. The growing statistics on incidence of sexual abuse of children -- regardless of whether they represent merely better reporting procedures or an increase in the cases themselves -- demonstrate beyond any doubt that more needs to be done by government entities at every level to deal effectively with the devastating abuse of our children.

The 1978 law focused primarily on providing treatment for the young victims of sexual abuse.

The legislation proposed by Senator Hawkins, the proposed "Children's Justice Act", moves a step further by addressing another very important element of the overall problem relating to sexual abuse cases -- the further victimization of the child victims through an abusive judicial process that fails to recognize the special nature of the crime involved and the additional trauma inflicted upon the children who are often the principal sources of evidence in the judicial proceedings brought against the perpetrators of the sexual abuse. S. 140 would authorize the appropriation of funds for grants to be made to states which enact reforms designed to improve legal and administrative proceedings regarding the investigation and prosecution of sexual child abuse cases.

This new focus is greatly needed.

As I mentioned in my introductory remarks, the California Attorney General's Commission on Enforcement of Child Abuse Laws has recently issued a report containing a series of findings and recommendations focused primarily on how the criminal justice system could be made to work better to protect children who are the victims of sexual and physical abuse.

Later this month, John Van de Kamp, the California Attorney General, and I will be announcing a joint effort at the state and federal level to bring about implementation of the recommendations of the Attorney General's Commission. Towards that end, I intend to introduce omnibus legislation late this month to carry out several of the recommendations with respect to specific provisions of various federal laws which appear to conflict with state child abuse reporting requirements.

Specifically, I will incorporate in that legislation recommendation II.A.1.(page 1-14), to change federal drug abuse statutes to allow the reporting of child abuse as required by state law, recommendation II.C.1.(page 6-2) containing similar proposals with respect to federal welfare and social services statutes, and recommendation II.C.1. (page 6-2) to include child abuse statistics in the FBI Uniform Crime Reporting System.

Recommendations relating to purposes of S. 140

In addition, many of the recommendations contained in the California Attorney General's Commission's report are fully consistent with purposes of the legislation which Senator Hawkins has introduced, S. 140.

For example, the California Commission recommended that local law enforcement agencies in California establish specialized units or specially trained officers to handle all phases of investigation and prosecution of these cases -- a concept which would fall within the purposes of S. 140.

A number of recommendations in the report focus upon the need for legislation to modify courtroom procedures to accommodate the special needs of child victims. These recommendations include --

*placing reasonable limitations within constitutional limits on repetitive questions asked of child witnesses;

*explicit judicial authority to control the method of questioning of child witnesses;

*establishment of special rules for determining the competency of child witnesses;

*expanding the evidentiary rules relating to hearsay testimony to provide, with appropriate safeguards, for the admissibility of out-of-court statements of young child abuse victims; and,

*permitting the use of contemporaneous close-circuit televised testimony of very young witnesses in order to reduce the pressures and tensions experienced by these children in experiencing a typical courtroom situation.

I ask that a copy of the executive summary of the California Commission's recommendations be included in the hearing record at the conclusion of my remarks. I am also submitted a copy of the full report for the Subcommittee's files.

I believe that the Chairwoman has already received a letter from Attorney General Van de Kamp in support of S. 140. I would like to join in that support and would request that my name be added as a cosponsor of this legislation.

At this point, the recommendations in the California Commissions report remain simply recommendations. Enactment of S. 140 would, I believe, provides a real incentive and stimulus to move them from the recommendation stage to the implementation stage.

Recommendations for Amendments to S. 140

Finally, Madam Chairperson, I have several suggested amendments to S. 140 that are appended to my prepared statement to address additional areas of concern highlighted in the California Commission's report.

Repeatedly, the Commission stressed the need for development of appropriate procedures, training materials, and research into various aspects of the problems of child abuse.

I believe that the federal government can and should play an expanded role, through the National Center on Child Abuse and Neglect, to assist the states in their efforts in this area.

For example, the Commission recommended that the California Attorney General research the techniques used in other jurisdictions, both domestic and foreign, and analyze the reasons for their effectiveness or lack thereof. That would seem to be a function that the federal government can perform, rather than leave it to each individual state to attempt to acquire and compile this type of information.

Several other recommendations in the Commission's report call for long-term research into various areas affecting this problem.

Again, research activities are well suited for federal involvement, coordination, and dissemination, rather than relying on individual state efforts and potential duplication.

The National Center for Child Abuse and Neglect was established to serve as clearinghouse on information in this field and to help develop training materials and procedures to be used by individual states and localities. One persistent problem that has plagued the federal child abuse program since it was first established has been its ability to disseminate information and research findings on a timely basis to those in the field who need to know what approaches and techniques are being tested out in other jurisdictions and which of those are working and which are not.

Over the years, the National Center has been buried in HHS bureaucracy, its funding diverted on occasion to support general discretionary projects supported by the Office of Human Development Services, rather than projects focused specifically

on the issues of child abuse and neglect. Congress was forced in last year's legislation reauthorizing appropriations for the federal child abuse program to include provisions prohibiting HHS from using any funds appropriated under the child abuse act for any purpose other than that for which such funds were specifically authorized.

The National Center can and should play an active role in supporting the efforts of states develop innovative approaches to dealing with the treatment of child victims in the criminal justice systems proceedings. However, to get the Center to respond to this need in a timely fashion, I believe it will be necessary to provide an explicit legislative mandate to the Center.

Accordingly, the amendment I am proposing to S. 140 would direct the National Center to become an active partner in state efforts to develop programs consistent with the purposes of S. 140. This amendment would require the National Center to compile and disseminate within six months of the date of enactment information on the various approaches already developed or in the process of being developed, along with information on the effectiveness or lack thereof of various approaches, to develop and disseminate appropriate training materials for professionals involved at all points in the criminal justice system, from law enforcement personnel to judges themselves, and to support an on-going research effort in this area, focusing upon identifying promising approaches. This amendment would also require the National Center to evaluate the activities carried out by the States pursuant to the provisions of S. 140 and to report to Congress on the effectiveness of these activities in achieving the bill's goals as well as on the steps that the National Center has taken to facilitate accomplishment of the purposes of the bill.

Finally, my amendment would modify S. 140 to provide explicitly that the new funds could be distributed directly to state law enforcement agencies, such as the state departments of justice, and would not be limited to the state agencies, such as the social services agencies, which currently receive grants under section 4(a) of the federal Child Abuse Prevention and Treatment Act. I believe that allowing these funds to go directly to statewide law enforcement agencies would be of significant benefit in helping to elevate the level of interest and attention paid to how the criminal justice system deals with child abuse cases. As long as child abuse is regarded primarily as a matter for the child welfare or social services agencies, rather than for law enforcement agencies as well, the changes that are contemplated under S. 140 are not likely to move forward with the speed they require.

As I noted, attached to my testimony is an amendment to carry out the purposes I have outlined. I would welcome your input on this amendment, Madame Chairwoman and Senator Dodd, and hope that our staffs can work together to develop this concept into a form that would be acceptable to the Subcommittee.

Conclusion

Madame Chairwoman and members of the Subcomittee, I very much appreciate this opportunity to share with you these recommendations and the findings from the California Attorney General's Commission on the Enforcement of Child Abuse Laws. I am pleased to lend my support and suggestions to your efforts to bring about the important and necessary changes we are seeking in how the criminal justice system deals with protecting the interests of children who have been the victims of abuse.

May 2, 1985

Amendment Proposed by Senator Alan Cranston to S. 140

On page 2, line 9, insert the following new sentence after "title.":

"Grants under this title may be made to the State agency which administers funds received under section 4(a) of such Act or to an appropriate statewide law enforcement agency which has developed a sexual abuse program which meets the requirements of section 402(b).".

On page 4, line 24, strike out "'1987.'." and insert in lieu thereof "1987." and insert at the end of the page the following new section:

"SEC. 405. (a) In order to assist the States in developing effective approaches to achieve the objectives set forth in section 402(b), the Secretary, through the National Center on Child Abuse and Neglect (hereinafter referred to in this title as the 'Center') established pursuant to section 2(a) of the Child Abuse Prevention and Treatment Act, shall --

(1) compile, analyze, publish, and disseminate to each State a summary, including an evaluation of the effectiveness or lack thereof, of approaches being utilized, developed, or proposed with respect to improving the investigation and prosecution of child sexual abuse cases in a manner which reduces the trauma to the child victim along with such other materials or information as may be helpful to the States in developing or implementing programs or procedures to satisfy the requirements of this title;

(2) develop and disseminate to appropriate State officials model training materials and procedures to help ensure that all law enforcement, legal, judicial, and child welfare personnel are adequately trained to deal with child sexual abuse victims; and

(3) provide for the support of research projects to assist in identifying effective approaches to achieving the objectives of this title.

(b) Not later than two years after the date on which funds are obligated under section 404 for the first time after the date of the enactment of this title, the Secretary shall review and evaluate the effectiveness of the activities carried out with such funds in achieving the objectives of this title, and report to the appropriate Committees of the Congress on the results of such review and evaluation and on the steps taken by the Secretary, through the Center, to assist the States in achieving such objectives.

(c) The summary, information, and materials required under subsection (a)(1) and (2) shall be made available to appropriate State officials not later than 180 days after the date of the enactment of this title.".

From Attorney General John Van De Kamp's
Commission on the Enforcement of
Child Abuse Laws, April, 1985

RECOMMENDATIONS OF THE ATTORNEY GENERAL'S COMMISSION ON THE ENFORCEMENT OF CHILD ABUSE LAWS

REPORTING

A. Confidentiality Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL PROPOSE FEDERAL LEGISLATION TO CHANGE FEDERAL DRUG ABUSE CONFIDENTIALITY STATUTES TO ALLOW THE REPORTING OF CHILD ABUSE AS REQUIRED BY STATE LAW.

2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION ALLOWING THE STATE DEPARTMENT OF SOCIAL SERVICES ACCESS TO THE DEPARTMENT OF JUSTICE CHILD ABUSE CENTRAL REGISTRY.

3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO CHANGE THE CHILD ABUSE REPORTING LAW TO REQUIRE MANDATED REPORTERS TO DISCUSS THEIR REPORTS WITH CHILD PROTECTIVE AGENCY INVESTIGATORS.

B. Sanction Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO SPECIFY THAT WILLFUL INTERFERENCE BY SUPERVISORS OR ADMINISTRATORS WITH REPORTS BY MANDATED REPORTERS IS A MISDEMEANOR.

2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT ALL APPROPRIATE STATE PROFESSIONAL LICENSING BOARDS DEVELOP DISCIPLINARY PROCEDURES FOR MANDATED REPORTERS WHO FAIL TO COMPLY WITH THE CHILD ABUSE REPORTING LAW.

C. Training Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL TAKE APPROPRIATE ACTIONS TO ENSURE THAT MANDATED REPORTERS ARE TRAINED IN THEIR RESPONSIBILITIES, INCLUDING FORMAL REQUESTS TO APPROPRIATE STATE AGENCIES AND ORGANIZATIONS TO PROVIDE ADEQUATE TRAINING.

D. Clarifying Legislation Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR CLARIFYING LEGISLATION FOR THE CALIFORNIA CHILD ABUSE REPORTING LAW NECESSITATED BY RECENT STATUTORY CHANGES.

INVESTIGATION

A. Confidentiality Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SEEK CHANGES TO FEDERAL AND STATE LAWS TO REMOVE WELFARE/SOCIAL SERVICES CONFIDENTIALITY PROVISIONS WHICH INAPPROPRIATELY IMPEDE TIMELY AND EFFECTIVE CHILD ABUSE INVESTIGATIONS BY LAW ENFORCEMENT AND PROSECUTION AGENCIES.

B. Organizational and Procedural Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ESTABLISH A MISSING AND EXPLOITED CHILDREN'S UNIT WITHIN THE DEPARTMENT OF JUSTICE TO COORDINATE MULTIJURISDICTIONAL INVESTIGATIONS AND TO PROVIDE TRAINING AND INVESTIGATIVE ASSISTANCE AND CONSULTATION TO LOCAL JURISDICTIONS.

2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO ESTABLISH RESPONSE CRITERIA FOR REPORTS OF MISSING CHILDREN. THE CRITERIA SHOULD INCLUDE: (A) IMMEDIATE AND APPROPRIATE RESPONSE; (B) IMMEDIATE ENTRY OF

THE REPORT IN THE NATIONAL CRIME INFORMATION CENTER (NCIC) MISSING PERSONS FILE; AND (C) A REQUIREMENT TO SUBMIT A COPY OF THE REPORT TO THE JURISDICTION IN WHICH THE CHILD RESIDES.

3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST) DEVELOP STANDARDIZED PROTOCOLS FOR LOCAL LAW ENFORCEMENT AGENCIES ON THE INVESTIGATION OF CHILD PHYSICAL ABUSE, SEXUAL ABUSE, AND NEGLECT.

4. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE LOCAL LAW ENFORCEMENT AGENCIES TO ESTALISH SPECIALIZED UNITS OR ASSIGN SPECIALLY TRAINED OFFICERS TO THE INVESTIGATION OF CHILD ABUSE.

5. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE LOCAL LAW ENFORCEMENT AGENCIES TO BOTH COORDINTE CHILD ABUSE INVESTIGATIONS AND PARTICIPATE ON INTERAGENCY COORDINATION COUNCILS.

C. Training Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING UPDATE AND EXPAND THE CHILD ABUSE TRAINING UNIT IN THE BASIC ACADEMY COURSE FOR NEW OFFICERS. THE BASIC TRAINING SHOULD BE DIRECTED TOWARD DETECTION, INVESTIGATION, AND REPORTING. BASIC TRAINING SHOULD BE SUPPLEMENTED BY ADVANCED OFFICER TRAINING AND SPECIAL COURSES.

2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING PERIODICALLY UPDATE ITS CHILD ABUSE TRAINING MATERIALS, INCLUDING "INVESTIGATION OF CHILD ABUSE AND NEGLECT" AND "GUIDELINES FOR THE INVESTIGATION OF SEXUAL EXPLOITATION AND SEXUAL ABUSE OF CHILDREN."

3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO MAKE THE TRAINING REQUIREMENTS IN PENAL CODE SECTION 13517 MANDATORY FOR OFFICERS ASSIGNED AS INVESTIGATIVE SPECIALISTS IN CHILD ABUSE AND NEGLECT CASES.

4. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL AND THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING ENSURE COMPLIANCE WITH MANDATORY TRAINING REQUIREMENTS IN PENAL CODE SECTION 13516 FOR OFFICERS ASSIGNED AS INVESTIGATIVE SPECIALISTS IN SEXUAL ASSAULT AND EXPLOITATION CASES.

D. Medical Evidentiary Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT APPROPRIATE STATE AGENCIES AND PROFESSIONAL MEDICAL ORGANIZATIONS WORK WITH THE OFFICE OF CRIMINAL JUSTICE PLANNING IN THE PLANNING, DEVELOPMENT AND IMPLEMENTATION OF A STATEWIDE STANDARDIZED PROCEDURE FOR USE BY HEALTH PROVIDERS IN CASES OF SUSPECTED CHILD ABUSE.

2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE STATE DEPARTMENT OF HEALTH SERVICES DEVELOP A STANDARD MINIMUM REQUIREMENT FOR CHILD ABUSE SERVICES FOR ALL LICENSED HOSPITALS AND CLINICS WITH ACTIVE PEDIATRIC SERVICES, WHICH SHOULD INCLUDE A DESIGNATED TEAM, STANDARDIZED PROTOCOLS, AND AN INTERNAL AND EXTERNAL AUDIT OF THE RESPONSE OF THAT TEAM.

3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL EXPLORE MEANS TO STANDARDIZE AND FUND MEDICAL EVIDENTIARY EXAMINATIONS IN CHILD ABUSE CASES.

4. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE STATE CORONERS' ASSOCIATION DEVELOP UNIFORM STANDARDS FOR THE REVIEW OF ALL CHILD DEATH CASES.

E. Dependency and Custody Investigation Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO SPECIFY THAT PROTECTION OF THE CHILD IS THE FIRST PRIORITY OF WELFARE &

INSTITUTIONS CODE SECTION 315 DETENTION HEARINGS, AND THAT A CHILD SHOULD NOT BE IMMEDIATELY RETURNED TO HIS OR HER CUSTODIAL PARENT OR GUARDIAN WHEN THE EVIDENCE SHOWS SEXUAL ABUSE OR SEVERE PHYSICAL ABUSE BY THAT PARENT OR GUARDIAN.

2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT STATE DEPARTMENT OF SOCIAL SERVICES AND COUNTY WELFARE DIRECTOR ASSOCIATION EFFORTS TO DEVELOP CASELOAD STANDARDS AND GUIDELINES FOR THE INVESTIGATION AND MANAGEMENT OF CHILD ABUSE CASES.

3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL TAKE NECESSARY STEPS FOR THE DEVELOPMENT OF APPROPRIATE TRAINING IN THE LEGAL ASPECTS OF PROCESSING CHILD ABUSE CASES IN BOTH THE DEPENDENCY AND CRIMINAL SYSTEMS FOR ALL CHILD WELFARE SERVICES WORKERS IN THE PUBLIC SOCIAL SERVICES SYSTEMS.

4. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL RECOMMEND THAT THE STATE DEPARTMENT OF SOCIAL SERVICES WORK WITH THE COUNTY WELFARE DIRECTORS TO MAKE EVERY EFFORT TO ESTABLISH CASE MANAGEMENT SYSTEMS IN WHICH FAMILIES RECEIVING CHILD WELFARE SERVICES ARE ASSIGNED, AT MOST, ONE INVESTIGATOR AND ONE CHILD WELFARE SERVICES WORKER.

5. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE THE DEVELOPMENT OF JOINT LAW ENFORCEMENT AND CHILD WELFARE SERVICES TEAMS FOR THE INVESTIGATION OF CHILD ABUSE REPORTS.

PROSECUTION

A. Modification of Courtrooms Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO PROVIDE FOR THE MODIFICATION OF COURTROOMS TO ACCOMMODATE CHILD VICTIMS.

B. Jurisdictional, Organizational and Procedural Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION ENCOURAGING AND PROVIDING FUNDING FOR VERTICAL PROSECUTION UNITS IN DISTRICT ATTORNEYS' OFFICES FOR CHILD ABUSE CASES.

2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO ESTABLISH THAT THE DOCTRINES OF COLLATERAL ESTOPPEL AND RES JUDICATA SHALL NOT APPLY IN A CRIMINAL PROCEEDING IN THE EVENT OF AN ADVERSE RULING IN A JUVENILE COURT DEPENDENCY PROCEEDING.

3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO REQUIRE THE COURTS TO REFER ANY ALLEGATION OF CHILD ABUSE ARISING IN A FAMILY LAW PROCEEDING TO THE COUNTY WELFARE DEPARTMENT FOR AN ASSESSMENT AND A REPORT BACK TO THE COURT.

4. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO AMEND EVIDENCE CODE SECTION 765, TO ADD SUBSECTIONS WHICH (A) PLACE REASONABLE LIMITATIONS WITHIN CONSTITUTIONAL LIMITS ON REPETITIVE QUESTIONS ASKED OF CHILD WITNESSES IN CASES INVOLVING MULTIPLE DEFENDANTS, AND (B) PROVIDE EXPLICIT JUDICIAL AUTHORITY TO CONTROL THE METHOD OF EXAMINATION OF CHILD WITNESSES.

5. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO ESTABLISH SPECIAL RULES FOR DETERMINING THE COMPETENCY OF CHILD WITNESSES.

6. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO ALLOW A PRELIMINARY HEARING TO BE POSTPONED, FOR A REASONABLE TIME WHERE NECESSARY, WHEN A YOUNG CHILD VICTIM OR WITNESS IS TESTIFYING.

7. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO EXPAND HEARSAY EXCEPTIONS, WITH APPROPRIATE SAFEGUARDS, AND PERMIT THE ADMISSIBILITY OF OUT-OF-COURT STATEMENTS OF YOUNG CHILD ABUSE VICTIMS.

8. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION

PERMITTING THE USE OF CONTEMPORANEOUS CLOSED-CIRCUIT TELEVISION, UNDER CERTAIN CIRCUMSTANCES, FOR TESTIMONY PROVIDED BY YOUNG CHILD ABUSE VICTIMS IN COURT.

9. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION WHICH WOULD PERMIT A CHILD VICTIM TO SELECT ANY SUPPORT PERSON OF HIS OR HER CHOICE TO BE PRESENT AT ALL TIMES DURING ANY COURT PROCEEDINGS.

C. Training Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL, IN CONJUNCTION WITH THE CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION, SPONSOR LEGISLATION REQUIRING THE DEVELOPMENT OF CURRICULA AND THE PROVISION OF ONGOING TRAINING FOR DISTRICT ATTORNEYS ON THE SUBJECT OF INTERVIEWING CHILD VICTIMS AND PROSECUTING CHILD ABUSE CASES.

2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL, IN CONJUNCTION WITH THE CALIFORNIA JUDGES' COLLEGE AND THE JUDICIAL COUNCIL, SPONSOR LEGISLATION TO DEVELOP CURRICULA AND PROVIDE ONGOING TRAINING FOR JUDGES IN THE COURT ADMINISTRATION AND MANAGEMENT OF CHILD ABUSE CASES.

3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL PUBLISH A "KNOW YOUR CHILD ABUSE LAWS" PAMPHLET OR PUBLICATION FOR CRIMINAL JUSTICE PROFESSIONALS.

D. New Crime and Registration Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION ESTABLISHING A STATUTORY SECOND-DEGREE MURDER RULE APPLICABLE TO CHILD ABUSE DEATHS.

2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION REQUIRING THE REGISTRATION OF CONVICTED ADOLESCENT SEX OFFENDERS.

E. Dependency Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE THE JUDICIAL COUNCIL TO CONDUCT A SURVEY TO COLLECT INFORMATION FROM COURTS REGARDING EXISTING PRACTICES IN CHILD DEPENDENCY HEARINGS, INCLUDING: THE RESPONSIBLE AGENCY, LEVEL OF TRAINING OF ATTORNEYS, EXISTING PROTOCOLS FOR COORDINATION WITH THE PROSECUTORS OF CRIMINAL ACTIONS, USE OF REFEREES, COMMISSIONERS AND JUDGES, LEVEL OF TRAINING OF JUDICIAL PERSONNEL, ADEQUACY OF COURT FACILITIES, AND STANDARDS USED TO DETERMINE WHETHER OR NOT TO RETURN THE CHILD TO THE HOME.

DAY CARE LICENSING

A. Long-Range Planning Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL CREATE A FORUM FOR REVIEWING THE CURRENT STATE OF CHILD CARE PRACTICES. ISSUES TO BE ADDRESSED INCLUDE:

   - CURRENT DATA ON CHILD CARE AVAILABILITY TO DETERMINE WHAT RESOURCES ARE NEEDED TO IMPROVE THE QUALITY OF CHILD CARE
   - CURRENT EFFORTS TO EXPAND THE AVAILABILITY OF CHILD CARE SERVICES TO MEET THE DEMAND
   - DETERMINATION OF THE NEED FOR AN OFFICE OF CHILD CARE AT THE STATE LEVEL TO SERVE AS A FOCAL POINT FOR ALL CHILD DAY CARE PROGRAM AND LICENSING ACTIVITIES
   - UPGRADING OF CHILD CARE TEACHER REQUIREMENTS AND COMPENSATION.
   - THE VALUE OF DIVERSIFIED CHILD CARE SERVICES, INCLUDING CHILD CARE CENTERS AND PUBLIC SCHOOL PROGRAMS
   - THE COST AND FUNDING SOURCES FOR PROPOSALS ARISING FROM THE FORUM

B. Parent Awareness Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL DEVELOP STRATEGIES TO INCREASE PARENTAL AWARENESS OF AVAILABLE CHILD DAY CARE CHOICES AND LICENSING REQUIREMENTS IN COOPERATION WITH THE STATE DEPARTMENT OF EDUCATION, STATE DEPARTMENT OF SOCIAL SERVICES AND THE CALIFORNIA RESOURCE AND REFERRAL NETWORK.

C. Provider Training Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL: (A) PROVIDE FOR THE UPDATING AND PUBLISHING OF THE PAMPHLET, "REPORTING CHILD ABUSE: RIGHTS AND RESPONSIBILITIES FOR CHILD CARE PROVIDERS," FOR DISSEMINATION TO EVERY CHILD DAY CARE FACILITY; (B) REQUEST THAT THE STATE DEPARTMENT OF SOCIAL SERVICES INCLUDE INFORMATION ON CHILD ABUSE REPORTING MANDATES IN ALL ORIENTATION SESSIONS FOR POTENTIAL CHILD DAY CARE LICENSEES; AND (C) REQUEST THAT THE DEPARTMENT OF SOCIAL SERVICES USE SOME OF THE INCREASED TITLE XX MONIES EARMARKED FOR CHILD DAY CARE TRAINING ON CHILD ABUSE PREVENTION AND INTERVENTION TRAINING FOR ALL CHILD DAY CARE PROVIDERS.

D. Consumer Protection Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT LEGISLATION TO GUARANTEE PARENTS THE RIGHT TO INSPECT CHILD DAY CARE FACILITIES WHILE THEIR CHILDREN ARE IN CARE AT THE FACILITY.

2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION THAT THE OMBUDSMEN OF THE DEPARTMENT OF SOCIAL SERVICES COMMUNITY CARE LICENSING DIVISION DISTRICT OFFICES NOTIFY THE APPROPRIATE LOCAL RESOURCE AND REFERRAL AGENCY, FUNDED PURSUANT TO EDUCATION CODE SECTIONS 8210 THROUGH 8214, WHEN A FACILITY IS UNDER INVESTIGATION AND IT APPEARS THAT A SUSPENSION OR REVOCATION ACTION IS LIKELY.

3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE THE DEPARTMENT OF SOCIAL SERVICES TO CONTINUE ITS EFFORTS TO ENSURE TIMELY NOTIFICATION TO PARENTS AND RESOURCE AND REFERRAL AGENCIES WHEN AN ADMINISTRATIVE ACTION IS INSTITUTED AGAINST A LICENSEE. FURTHER, PARENTS AND RESOURCE AND REFERRAL AGENCIES SHOULD BE NOTIFIED WHENEVER AN ACTION TO REVOKE A LICENSE HAS BEEN FILED.

4. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE THE DEPARTMENT OF SOCIAL SERVICES TO CONTINUE ITS RECENTLY INSTITUTED PRACTICE OF PUBLICIZING REVOCATIONS AND SUSPENSIONS.

E. Complaint Process Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE DEPARTMENT OF SOCIAL SERVICES INSTALL TOLL FREE NUMBERS OR SPECIAL COMPLAINT LINES AT EACH CHILD DAY CARE LICENSING DISTRICT OFFICE TO FACILITATE THE COMPLAINT PROCESS.

2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE DEPARTMENT OF SOCIAL SERVICES REQUIRE EXPEDITIOUS RESOLUTION OF A COMPLAINT AGAINST A CHILD DAY CARE FACILITY.

F. Investigation Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION REQUIRING THAT THE DEPARTMENT OF JUSTICE, IN COOPERATION WITH THE STATE DEPARTMENT OF SOCIAL SERVICES, DEVELOP REGULATIONS FOR THE INVESTIGATION OF REPORTS OF CHILD ABUSE OCCURRING IN CHILD DAY CARE FACILITIES.

   THE REGULATIONS SHOULD INCLUDE:

   - PROVISIONS FOR IMMEDIATE CROSS-REPORTING BETWEEN LAW ENFORCEMENT AND THE LICENSING AGENCY

- INVOLVEMENT BY THE COUNTY WELFARE DEPARTMENT CHILD WELFARE STAFF AS APPROPRIATE
- INFORMATION SHARING BETWEEN THE INVESTIGATING AGENCIES

THE LEGISLATION SHOULD ALSO REQUIRE THAT REGULATIONS BE DEVELOPED FOR RESPONDING TO REPORTS OF ABUSE IN ALL OUT-OF-HOME CHILD CARE SITUATIONS.

2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL AND THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING DEVELOP A PROTOCOL FOR INVESTIGATING ABUSE IN A CHILD DAY CARE FACILITY.

G. License Denial and Revocation Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR OR SUPPORT LEGISLATION TO CODIFY THE "PREPONDERANCE OF THE EVIDENCE" STANDARD FOR LICENSE REVOCATION PROCEEDINGS.

H. Judicial Training Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE THE DEVELOPMENT OF TRAINING PROGRAMS FOR JUDGES AND ADMINISTRATIVE LAW JUDGES REGARDING THE REQUIREMENTS FOR LICENSING CHILD DAY CARE FACILITIES.

I. Criminal Record Checks Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL AND THE STATE DEPARTMENT OF SOCIAL SERVICES ADOPT PROCEDURES TO EXPEDITE CRIMINAL RECORD CHECKS ON PROSPECTIVE EMPLOYEES IN CHILD DAY CARE FACILITIES.

PREVENTION

A. Public Awareness Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL CONTINUE TO FOCUS PUBLIC ATTENTION ON THE PROBLEMS OF CHILD ABUSE AND NEGLECT AND PROMOTE THE DEVELOPMENT OF COMMUNITY SERVICES TO PREVENT THE MISTREATMENT OF CHILDREN.

B. Community Involvement and Interagency Coordination Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT LEGISLATION TO DEFINE, RECOGNIZE AND FUND CHILD ABUSE COUNCILS STATEWIDE.
2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL CONTINUE TO PROMOTE THE USE OF NEIGHBORHOOD WATCH AND BLOCK PARENT PROGRAMS FOR FAMILY VIOLENCE REDUCTION AND CHILD ABUSE PREVENTION.

C. Training Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE CHILD ABUSE TRAINING FOR APPROPRIATE PROFESSIONALS DURING THEIR FORMAL EDUCATION AND AS A CONDITION TO LICENSURE.
2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT LEGISLATION TO MANDATE PARENTING EDUCATION IN ALL PUBLIC SCHOOLS FROM KINDERGARTEN THROUGH TWELFTH GRADE.

D. Treatment Services Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT THE CONTINUED DEVELOPMENT AND EXPANSION OF TREATMENT RESOURCES FOR VICTIMS OF CHILD ABUSE, THEIR FAMILIES, AND FOR SELECTED OFFENDERS.

E. Extended Day Care Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL AND THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION JOINTLY SPONSOR LEGISLATION TO PROVIDE FUNDING THROUGH THE STATE DEPARTMENT OF EDUCATION TO:
   a. EXPAND SCHOOL-AGE AND PRESCHOOL-AGE CARE PROGRAMS

b. MAXIMIZE THE USE OF EXISTING SCHOOL FACILITIES FOR SUPERVISION OF CHILDREN FROM 7:00 A.M. TO 7:00 P.M.

F. Cultural Issues Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT EFFORTS TO ENSURE THAT THE ENFORCEMENT OF CHILD ABUSE LAWS IS NONDISCRIMINATORY.

G. Neonatal Withdrawal Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SEEK DEVELOPMENT OF GUIDELINES FOR THE REPORTING AND MANAGEMENT OF CASES OF SUSPECTED NEONATAL DRUG AND ALCOHOL WITHDRAWAL, INCLUDING STANDARDS FOR TAKING THE CHILD INTO PROTECTIVE CUSTODY, FOR SUSTAINING A DEPENDENCY PETITION AND FOR TIMELY RESPONSE.

DATA COLLECTION AND RESEARCH

A. Permanent Child Abuse Commission Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL CONSIDER ESTABLISHING A PERMANENT CHILD ABUSE COMMISSION TO MEET QUARTERLY TO REVIEW FOLLOW-UP ON THE RECOMMENDATIONS OF THE ATTORNEY GENERAL'S COMMISSION ON THE ENFORCEMENT OF CHILD ABUSE LAWS, AND TO CONSIDER SPECIAL CONCERNS RELATED TO CHILD ABUSE.

B. Children's Court Pilot Project Recommendation

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO ESTABLISH A CHILD VICTIMS' COURT PILOT PROJECT.

C. Data Collection Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT THE INCLUSION OF CHILD ABUSE STATISTICS IN THE FBI UNIFORM CRIME REPORTING (UCR) SYSTEM.
2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR STATE LEGISLATION TO INCUDE THE AGES OF VICTIMS AND THEIR RELATIONSHIPS TO OFFENDERS IN THE REPORTING OF ALL CRIMES AGAINST PERSONS UNDER 18 YEARS OF AGE.
3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL INITIATE EFFORTS TO COORDINATE CHILD ABUSE DATA COLLECTION BY THE DEPARTMENT OF JUSTICE AND THE STATE DEPARTMENT OF SOCIAL SERVICES FOR PUBLIC DISSEMINATION.
4. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL DEVELOP A PROCEDURE FOR TRACKING CHILD ABUSE CASES THROUGH THE CRIMINAL AND CIVIL COURT SYSTEMS.
5. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE JUDICIAL COUNCIL ANALYZE CHILD ABUSE-RELATED OFFENSES SEPARATELY IN ITS ANNUAL REPORT TO DETERMINE UNIFORMITY OF SENTENCING PRACTICES.
6. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL INITIATE A SURVEY OF CASE MANAGEMENT DATA SYSTEMS FROM ALL CRIMINAL PROSECUTION AGENCIES.
7. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL COLLECT INFORMATION FROM INVESTIGATIVE AND PROSECUTION AGENCIES ON EXISTING PRACTICES USED TO RECORD INTERVIEWS WITH CHILD VICTIMS, AND INTERVIEW TECHNIQUES EMPLOYED BY SUCH AGENCIES.
8. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL MAINTAIN STATISTICS REGARDING THE APPLICATION OF LAWS IN THE CHILD PORNOGRAPHY AREA.

D. Research Recommendations

1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE RESEARCH INTO THE EFFECTS OF THE COURT PROCESS ON CHILD ABUSE VICTIMS.

2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE RESEARCH INTO THE FOLLOWING:
   - INTERVIEWING CHILD VICTIMS TO MINIMIZE TRAUMA AND MAXIMIZE RELIABILITY OF INFORMATION OBTAINED
   - EXAMINING WHETHER EXISTING LEGAL PRACTICES IN DETERMINING CREDIBILITY OF CHILD VICTIMS ARE FAIR AND OFFER EQUAL PROTECTION TO CHILDREN AS A CLASS
   - DETERMINING WHETHER EXISTING PRACTICES IN QUALIFYING CHILD WITNESSES TO TESTIFY ARE APPROPRIATE AND RELIABLE
   - EFFECTIVENESS OF COURT ACTIONS IN PROTECTING CHILDREN FROM ABUSE
   - CHILD ABUSING ASPECTS OF THE INTERVENTION SYSTEM (I.E., SYSTEM ABUSE)
   - VALUE OF MULTIAGENCY, MULTIDISCIPLINARY INTERVENTION SYSTEMS
   - EFFECTIVENESS OF CHILD ABUSE TREATMENT PROGRAMS
   - CORRELATION BETWEEN CHILD ABUSE, SPOUSE ABUSE, AND ELDER ABUSE
   - CHILD ABUSE WITHIN THE FOSTER-CARE SYSTEM
3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE RESEARCH DESIGNED TO DETERMINE THE MOST EFFECTIVE USE OF RESOURCES OF THE FOLLOWING GOVERNMENTAL AGENCIES AND PROFESSIONALS WITH A VIEW TOWARD MAXIMUM COORDINATION OF EFFORTS IN THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES: MANDATED REPORTERS, LAW ENFORCEMENT AGENCIES, CHILD WELFARE SERVICES AGENCIES, PROBATION DEPARTMENTS, STATE LICENSING AGENCIES, FAMILY COURT SERVICES, DISTRICT ATTORNEYS, PUBLIC DEFENDERS, COUNTY COUNSELS, MUNICIPAL COURTS, AND SUPERIOR COURTS.
4. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE RESEARCH DESIGNED TO DETERMINE HOW COMMUNITY-BASED RESOURCES MAY BE MOST EFFECTIVELY COORDINATED TO MAXIMIZE CHILD ABUSE PREVENTION AND DETECTION EFFORTS: CHILD ABUSE COORDINATING COUNCILS, PARENTS' GROUPS, COMMUNITY-BASED SERVICE ORGANIZATIONS, CHILD CARE CENTERS/RESOURCE AND REFERRAL NETWORKS, PUBLIC AND PRIVATE SCHOOLS AND EDUCATIONAL FACILITIES, HOSPITALS AND CLINICS, MEDICAL ASSOCIATIONS, BAR ASSOCIATIONS, AND MEDIA.
5. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL, IN COOPERATION WITH OTHER AGENCIES, UNDERTAKE A STUDY OF THE INCIDENCE OF RECIDIVISM OF DEFENDANTS CONVICTED OF CHILD ABUSE OFFENSES.
6. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE LONG-TERM STUDY ON THE RELATIONSHIP BETWEEN CHILD ABUSE AND SUBSEQUENT CRIMINAL BEHAVIOR.
7. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE LONG-TERM RESEARCH TO IDENTIFY THE KINDS OF COMMUNITY RESOURCES WHICH WOULD HAVE A MEASURABLE EFFECT ON (A) REDUCING THE INCIDENCE OF CHILD ABUSE, AND (B) REDUCING SUBSEQUENT CRIMINAL BEHAVIOR DETERMINED TO BE CAUSED BY CHILD ABUSE.
8. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL RESEARCH THE EVALUATION OF CHILD ABUSE PREVENTION METHODS EMPLOYED IN OTHER JURISDICTIONS, BOTH DOMESTIC AND FOREIGN, INCLUDING AN ANALYSIS OF THE REASONS FOR THEIR EFFECTIVENESS OR LACK THEREOF.
9. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE RESEARCH TO STUDY METHODS TO INCREASE SELF-REPORTING BY OFFENDERS.
10. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT RESEARCH ON THE DEVELOPMENT OF (A) PARENTING PROGRAMS, SUPPORT SERVICES AND OTHER SPECIALIZED PROGRAMS FOR PREGNANT FEMALES OR PARENTS OF CHILDREN UNDER 10 WHO ARE DETAINED, INCARCERATED, OR ON PROBATION OR PAROLE, AND (B) TREATMENT PROGRAMS FOR CHILD ABUSE OFFENDERS WHO ARE INCARCERATED OR ON PROBATION OR PAROLE.

STATEMENT OF SENATOR CHARLES E. GRASSLEY
5/2/85 - Hearing on "S. 140 - CHILDREN'S JUSTICE ACT"

Chuck Grassley

MADAM CHAIRMAN, YOU ARE TO BE COMMENDED FOR YOUR SIGNIFICANT EFFORTS THAT HAVE CAUSED ALL OF US TO GIVE THE ISSUE OF CHILD ABUSE ITS PROPER PRIORITY. THE DISCUSSIONS THAT HAVE FOLLOWED AND THE TESTIMONY WE WILL RECEIVE HERE TODAY HAVE PRODUCED NEW IDEAS AND INNOVATIONS DIRECTED TOWARD THIS PROBLEM. AND IT IS A PROBLEM. I HAVE BECOME AWARE THAT A NEW WORD IS BEING USED IN THE DISCUSSIONS OF CHILD ABUSE. THE TERM IS "THROW AWAY CHILDREN" - UNWANTED BY PARENTS, MISUNDERSTOOD BY PEERS, USED UP BY ABUSERS, THEY ARE DISCARDED LIKE EXHAUSTED CONSUMER GOODS. IN A PROFOUND WAY, THE VERY INTRODUCTION OF THAT TERM INTO OUR WORKING VOCABULARY DEMONSTRATES THE SAD TRADEGY OF OUR SITUATION.

SENATOR HAWKINS HAS ASSEMBLED MANY DEDICATED PEOPLE HERE TODAY WHO WILL NO DOUBT INCREASE OUR UNDERSTANDING OF THE VARIED SOLUTIONS TO SEXUAL CHILD ABUSE. AS THEIR TESTIMONY IS PRESENTED, I THINK WE SHOULD PAY CLOSE ATTENTION TO A NUMBER OF IMPORTANT CIRCUMSTANCES WHICH I BELIEVE HAVE A VERY IMPORTANT BEARING ON HOW WE APPROACH THIS PROBLEM.

NUMBER 1, A SIGNIFICANT NUMBER OF VICTIMS ARE EITHER FROM HOMES WITH AT LEAST ONE PARENT WHO IS A SUBSTANCE ABUSER AND MANY CHILDREN THEMSELVES HAVE UNFORTUNATELY SOUGHT REFUGE IN SUBSTANCE ABUSE.

NUMBER 2, THE STATISTICAL CHANCES OF BEING SEXUALLY VICTIMIZED JUMPS FROM 30% AT HOME, TO 85% ON THE STREET IF THE CHILD IS A RUNAWAY. IF ARRESTED, THE CHANCES OF BEING SEXUALLY VICTIMIZED WHILE IN DETENTION JUMPS FROM 85% TO 100%.

Senator Grassley Cont.

WE IN THIS ROOM KNOW THAT NO CHILD WHO IS ABUSED IS A MERE STATISTIC. THE REMEDIAL MEASURES WE PROPOSE SHOULD TAKE INTO ACCOUNT THE PREDATORY ROLE OF CHICKEN HAWKS, PIMPS AND ADULT PEDOPHILES THESE CHILDREN MAY ENCOUNTER IN OR OUT OF JAIL. FURTHERMORE, THE PROBLEM OF SUBSTANCE ABUSE CAN GREATLY COMPLICATE THE SEXUAL ABUSE SITUATIONS IN WHICH THESE CHILDREN FIND THEMSELVES. ONCE A CHILD BECOMES ENMESHED IN SUCH A DEADLY NET, THE RESULTS ARE SADLY INEVITABLE.

NUMBER 3, MADAM CHAIRMAN, I BELIEVE THAT THE FACT THAT MANY PERSONS HERE TODAY ARE REPORTING ON WORK BEING DONE IN VARIOUS STATES IS ENCOURAGING INDEED. I BELIEVE WE AT THE FEDERAL LEVEL NEED TO BE EXTREMELY CAUTIOUS ABOUT IMPOSING FEDERAL POLICY ON THE STATES, WHICH ARE ALREADY TAKING MAJOR STEPS, MOST OF WHICH ARE NO DOUBT WISER THAN WHAT COMES FROM WASHINGTON, D. C., TOWARD SOLUTIONS TO THE PROBLEMS OF CHILD ABUSE THROUGH SUCH THINGS AS CHILD COUNSELING, PARENTAL GUIDANCE AND PROSECUTION OF OFFENDERS. THIS IS AN ISSUE FOR FEDERAL ADVICE AND GUIDANCE, NOT FOR FEDERAL ARM TWISTING. NO ARM TWISTING IS NEEDED ON AN ISSUE LIKE SEXUAL ABUSE OF OUR CHILDREN.

THERE ARE ALSO OTHER AREAS IN WHICH I BELIEVE LEADERSHIP AND LEGISLATION IS NEEDED. I HAVE INTRODUCED LEGISLATION, S. 985, A COMPREHENSIVE CHILD VICTIMS RIGHTS ACT AND SEVERAL OTHER BILLS, S. 1009, S. 1010, S. 1011, S. 1012, AND S. 1013. AMONG OTHER THINGS, SOME OF THESE INITIATIVES INCLUDE:

- DIRECTING THE FBI AND THE NATIONAL CRIME INFORMATION CENTER TO UPDATE THEIR DATA BASE BY INCLUDING INFORMATION ON THE AGE OF THE CHILD VICTIM AND THE RELATIONSHIP TO THE PERPETRATOR, TO AID IN BACK-GROUND CHECKS OF PROSPECTIVE EMPLOYEES BY CHILD CARE ORGANIZATIONS.

Senator Grassley Cont.

- INCREASE PENALTIES FOR CHILD EXPLOITATION TO DETER POTENTIAL FELONS AND PREVENT REPEAT OFFENDERS.

- REQUIRE THE ATTORNEY GENERAL TO STUDY POSSIBLE CHANGES IN THE FEDERAL RULES OF EVIDENCE, CHANGES IN CRIMINAL PROCEDURE AND CIVIL PROCEDURE AND OTHER FEDERAL COURTROOM, PROSECUTORIAL AND INVESTIGATIVE PROCEDURES TO FACILITATE THE PARTICIPATION OF CHILD VICTIMS AS WITNESSES. THE ATTORNEY GENERAL WOULD BE DIRECTED TO REPORT THOSE FINDINGS TO CONGRESS WITHIN ONE YEAR.

- MADAM CHAIRMAN, NOT ONLY AM I A COSPONSOR OF YOUR BILL WHICH WOULD PLACE CHILD PORNOGRAPHY LAWS UNDER RICO STATUES, BUT I INCLUDED THIS PORTION IN MY COMPREHENSIVE BILL ALSO.

I WOULD NOW LIKE TO INTRODUCE MS. MARGARET S. SHOWERS, WHO IS A WITNESS HERE TODAY FROM MY OWN STATE, IOWA. MARGI IS THE RESIDENTIAL SERVICES DIRECTOR FOR THE YOUTH AND SHELTER SERVICES. MARGI HAS BEEN WORKING WITH LIMITED RESOURCES TO PROVIDE SHELTER FOR FEMALE ADOLESCENTS WHO HAVE BEEN SEXUALLY ABUSED AND WHO ALSO HAVE SOME SORT OF DRUG OR ALCOHOL DEPENDANCY. CENTRAL IOWA HAS BENEFITTED FROM HER WORK, BUT MORE IMPORTANTLY, MARGI AND THE CENTER ARE TO BE COMMENDED FOR THE YOUNG PEOPLE THEY HAVE RECEIVED FROM A LIFE OF PAIN AND DESPAIR AND THE FAMILIES THEY ARE HELPING TO MEND.

* * *

Senator HAWKINS. We will also welcome Senator Kerry to the committee.

Do you have an opening statement?

Senator KERRY. Yes, thank you very much, Madam Chairwoman.

I would like to join with the members of the committee in welcoming Senator Cranston's testimony. I know that he has to go to the same meeting that I have to go to momentarily.

But I did want to express our appreciation for the longstanding, important work which he has performed with respect to children, particularly in regulations affecting the various aspects of child-care licensing, and I think he has been a leader on that for many years, and I thank him for his testimony here.

With respect to the legislation itself, Madam Chairwoman, I am strongly in favor of what we are doing here, although I think that there are some things that we can do, perhaps, to strengthen it.

I come to this area with a number of years—I spent about 5 years as the chief administrator and chief prosecutor in the largest district attorney's office in Massachusetts, and 1 of the 10 largest in the United States. And I started one of the first battered women and child abuse programs in the Commonwealth of Massachusetts in that capacity. And I must say that were it not for the seriousness of the subject which we are discussing here, it would almost be ironic, if not amusing, that we are back where we were when we first talked about the Law Enforcement Assistance Administration, and what it ought to be doing to assist us in this very kind of effort.

Tragically, over the last 4 or 5 years, the budget for assistance to our courts across the country, in an effort to try to be able to do just this kind of thing, has been cut. I regret that, and I state my regret firmly for the record.

Years ago, we began to realize that we have to be proactive in prosecution and proactive in our outreach, in an attempt to try to reach a host of constituencies in our society that become twice victims—once a victim when they are the victim of the crime itself, and the second time a victim when they go through the institutions that are set up to redress their grievance. And one of the most unfortunate aspects of that has been with children.

I think that part of the prevalence of child sexual abuse that we are becoming aware of today is not just that there is more of it—and I think there is—but that in the course of the proactive efforts of the criminal justice system to reach out, we have encouraged and been able, through efforts in the States, to begin to have people report it more and to be willing to try to move through the criminal justice system in order to try to redress this problem.

So Madam Chairwoman, I congratulate you for your focus on this, for your wanting to bring the resources of the Federal Government to bear on this problem, because I am convinced that unless we do, many States will simply drag their feet and lag behind or, faced with very serious fiscal crises, be unable to do what is necessary.

I watched first hand while kids came into our courthouses, were traumatized by the process itself, by having to face the defendant, by having to go through repeated interrogations, by having to go into a courtroom, by not having a place to be isolated, by not

having people who are trained to deal with them and assist them and help them to understand what was happening, by not having counselling available to assist them even after the fact. And every step of the way, I think we have seen a series of abuses.

In Massachusetts, I am proud to say that almost every suggestion in S. 140 is either implemented, or on the way to being implemented, or is in partial form part of our process, and we are about to move into the videotaping of the testimony, which I think will greatly facilitate things.

So based on my experience as a prosecutor, and based on what I have seen, I commend you, Madam Chairwoman, for doing this. I think it is terribly important. And while I think we might strengthen some of the evidentiary aspects of the bill, it is well on the way to providing a response which should have long ago been provided and which I am glad to be part of this committee and the effort to try to provide at this point in time.

Thank you very much.

Senator HAWKINS. Thank you. We welcome your participation and your interest and experience.

Senator Nickles has joined us. Do you have an opening statement?

Senator NICKLES. Yes, I do, Madam Chairwoman.

I appreciate your leadership on this issue. I think the legislation which you have introduced is a big step in the right direction, and I compliment you for it and compliment you for holding this hearing on the tragic incidence of child sexual abuse.

As a father, it is disturbing to me that child sexual abuse even occurs, much less that it is a widespread and growing occurrence among our children.

Unfortunately for many children, childhood is no longer a time of innocence. Instead, it has become a time when they are abused, perhaps without even realizing the extent of the abuse, and many times unfortunately, by someone they love.

I am sure it is very difficult for us to understand the emotions these children experience when they tell someone what has happened to them; certainly, when they talk to a lawyer, or when they receive a physical examination, and when they are subjected to a courtroom situation to testify against someone that they possibly know quite well.

Although it is necessary to get all the facts, I think we all agree that the procedures used to acquire this information should not end up making the child feel as though he or she is the criminal.

I want to applaud everyone who is working to assure that the child is protected. I think you are doing a valuable service for all children, and as a father, I certainly commend you for your efforts.

Last year in Oklahoma alone, there were some 6,593 confirmed cases of child abuse or neglect; 2,442 of these cases involved physical abuse, and about 25 percent of these, sexual abuse. So we certainly do have a problem, not just in Oklahoma, but throughout the country.

Because of the increased public awareness of child abuse, more people are willing to report possible cases of abuse, and consequently, I think more children are being rescued from abusive environments.

Oklahoma has worked to provide specialized training and equipment for sexual abuse investigations in order to facilitate accurate and up-to-date investigations and court testimony in cases where children were sexually abused. Oklahoma is also working and continuing to work to ensure that the trauma experienced by the victim is reduced as much as possible. Efforts are being made to increase public awareness of this problem and to educate those individuals directly involved in the judicial system on how to work effectively with children. It is a crime that children are subjected to any type of physical abuse, whether it be sexual in nature or not.

I hope that this hearing today will be instrumental in increasing our understanding of what is happening to some of our children and also helpful in making suggestions on how the prosecution of the abusers can be less traumatic to the victims involved.

So, Madame Chairman, again, I compliment you for your leadership. You have been the leader in the Senate in this area. I am pleased to serve with you on this committee. I am pleased to join with you in the child abuse amendments of 1985, and hopefully, we will be able to come up with some positive, constructive legislation that will be of benefit to the children and to the victims of this horrendous crime.

Thank you very much.

Senator HAWKINS. Thank you very much.

I enjoy working with you and appreciate your keen interest in the family.

Our first panel today will be discussing the trauma experienced by a child victim of sexual child abuse during the administrative and judicial proceedings, and some suggestions for methods to reduce that trauma. We welcome Andrea Landis and her husband, from Miami, FL. Andera is the mother of a victim of sexual child abuse. These great parents founded Justice for Sexually Abused Children, and they also founded a group called Parents of Country Walk. They are actively involved in my State in seeking child protection reforms in the Florida State Legislature.

We are happy to have you here, and just talk to us and try to ignore all the cameras. We are on your side.

STATEMENT OF ANDREA LANDIS, FOUNDER, JUSTICE FOR SEXUALLY ABUSED CHILDREN, MIAMI, FL

Mrs. LANDIS. First, I would like to thank you for giving me the opportunity to come up here and testify.

I do not have a speech, so I am going to just go ahead——

Senator HAWKINS. Please, just speak right into the microphone.

Mrs. LANDIS. I am the mother of a 4-year-old girl—she was 3 years old when she was sexually and emotionally abused, along with over 20 other children, ranging from the age of, say, 5 months to 7 years, at the Country Walk babysitting service.

Unknown to us, the Country Walk babysitting service was run by a man and a woman, husband and wife, Francisco Fuster Escalano and his wife, Ilyana Fuster. These were businesspeople. None of us suspected that they were child abusers.

It was unknown to us at the time that Francisco Fuster was a convicted murderer in New York City who served time; he was currently on probation in Dade County in Miami for molesting a 9-year-old girl while he was running the babysitting service.

One of the things that we were shocked to find was that the whole system failed in our case. Prior to us taking our child there, the Department of Health and Rehabilitative Services had had complaints of sexual abuse which they did not follow up.

The probation officer conducted meetings with the Fusters every month for his conviction of the child molestation, and he saw children being taking care of, and he did not think it was of concern.

I do not want to shock everybody by what I have, and I hope nobody gets offended, but I am going to go into what our children went through. Our children were not only raped, not only emotionally abused; they were made to eat feces; they were urinated upon; they were defecated upon, and in order to keep their secret, the Fusters killed animals in front of the children and told them that if they told, this was what would happen to mommy and daddy.

The first thing that our children had to go through was to talk to the police. The first contact was negative. And I'd like to say that I am a police sergeant with the city of Miami; I have been there 11 years. My husband has been there 18 years, and he is a lieutenant. It is shocking to me that people are assigned to investigate these cases who have no sensitivity and do not believe 2-, 3-, 4-, and 5-year-old children.

When we found out that our child was definitely abused, we had taken her to the State attorney's office. At that time, we were fortunate to have two child development specialists by the names of Joseph and Laurie Braga, who are nationally recognized for their work. They have been working in the State attorney's office in Dade County for free for the last 8 months, investigating—I would not say investigating, but they are interpreting—the child's language.

They have gotten statements from children who are 18 months old who are not lying: they are telling what happened.

In Florida, we are trying to change the way children testify, and unless interpreters are allowed, molesters are never going to be convicted.

One of the proposals that we have is that the child be allowed to tell his story videotaped from the time they walk into the room until the time they leave the room, to make sure they are not coached, to a child development specialist, not a therapist, but somebody who speaks 2-year-old, 3-year-old language.

I have some videotape that I brought that I wanted to show. The first one shows what a 2-year-old child has to go through in a court hearing.

[Videotape shown.]

Mrs. LANDIS. I would like to point out that one of the most important things that we are asking for for the Florida Legislature to pass is the interpreter. An example I am going to give you is of a case that went to trial right before Christmas, in which a 4-year-old girl was asked by the defense attorney, "Did this happen in your presence?"

Well, in her mind, she was thinking of Christmas "presents," and she said "No."

The defense attorney said, "Well, how do you know that this happened?"

"Because it happened to me; I was there," was her answer.

And he leaned over, about this far away from her face, and said, "Are you lying to me now, or were you lying to me then?"

I do not think that children should have to go through this. One of the proposals that we have is that the child be removed from the courtroom to a different room, placed in an environment comfortable to the child, with a little chair, a little table, with a specialist that can speak that language there; that on the other side of the mirror, the defense attorney be there, and the full court system; that the questions be put to the child through the interpreter, and the judge would be there to rule on any objections.

We are also asking that the mental age of the person be included, because we have had a 22-year-old women raped severely who has a mental age of 7, and these people are still free. They are not filing charges on the offenders.

Basically, we support the defendant's rights. We feel that somebody is innocent until proven guilty. However, we have to balance the scales of justice for the children. They have to be able to tell their story, in an atmosphere that is not threatening.

The children are vulnerable, and they are the future of this country, and if we do not protect them now, nobody else will.

Senator HAWKINS. Thank you, Mrs. Landis. We appreciate your participating here.

Can you give me an example of why you think that the small furniture would help? I have long thought that, it would, but now that you have been through this trial, you have personal experience.

Mrs. LANDIS. We had a case, the only case in Dade County—basically, the only case in the State of Florida—that the videotape law was used. It has been in effect since July; however, we do not find any judges that are courageous enough to use it. We had one case in which a 7-year-old child was raped severely by his father, and his testimony was taped. During the court proceeding, he was removed from the courtroom, and during deposition, they brought him into this huge room, with huge tables. They had the State attorney there, the defense attorney there, and the child was so small, he was hanging on the chair. Every time the child got to tell his story, there was an objection. In 45 minutes, there were 56 objections. And this child totally clammed up. He was literally under the table. And we feel that if he is removed from that type of atmosphere—I can go back to the rape treatment center when I took my daughter there. It was shocking to her, because it was a cold environment—and that is another proposal that we have in Dade County that we are working on, that they should have a separate facility to examine children in which they walk in and they are not frightened; that they have Muppets on the walls, that they have toys for them to feel comfortable with.

Senator HAWKINS. How many children were involved in Country Walk?

Mrs. LANDIS. There were over 25 children. However, they have only gotten statements on, I believe, 15 children, and right now, they have filed 28 counts—I think there is like 15 or 18 capital sexual battery, aggravated assault, lewd and lascivious. This is just based on the tapes that were done. The children were not coached, because they were walked into a room, they were interviewed. I had no idea what my daughter was going to say, because she had not told me. They were taped up until they walked out, until Laurie Braga came up to me and said, "Andrea, I am sorry." Nobody had any idea. And we have children that were months old who cannot talk.

Senator HAWKINS. The youngest age of the children involved, you said, was 5 or 6 months?

Mrs. LANDIS. Yes, months.

Senator HAWKINS. Did you say videotaping is not mandatory in Florida by the courts?

Mrs. LANDIS. No, it is not.

Senator HAWKINS. It is up to the judge?

Mrs. LANDIS. It is up to the judge, and I thank God for Judge Marfonious, because she is the only one that did it, and I am sure that case is going to be going up for appeal. It took the jury 40 minutes to convict the father.

Another thing was the confrontation—we do not feel—and we have read the Constitution, even though I am not an attorney—that the child has to sit in the same room with the person who did all these things, and threatened to kill their parents, and killed live animals in front of them to reinforce that. We are in the 20th century. When the Constitution was written, there were no TV's. And I do not mind having my daughter looking at Fuster, as long as it is through a two-way TV monitor, because eventually, she is going to have to identify the person.

Senator HAWKINS. So in your mind, then, the misuse of cross-examination such as the attorney putting his big face into the little face of the little girl becomes not a method of getting at the truth, but a method to destroy the case.

Mrs. LANDIS. That is it. I have always thought—I have been involved in criminal justice—that we are out here, looking for the truth, not to just protect these people.

Senator HAWKINS. Well, we appreciate so much both of you serving in the police department as well as being parents who are willing to try to make this system work. We would like to work with you.

Senator Nickles has some questions—and we welcome Senator Dodd to the hearing.

Senator NICKLES. Just a brief question. What is the status—has the Country Walk case been brought to court?

Mrs. LANDIS. It is set for trial on July 15.

Senator NICKLES. When was all this revealed?

Mrs. LANDIS. This was revealed August 8 of last year, 1984.

Senator NICKLES. Did your child give you any indication of what was going on prior to that?

Mrs. LANDIS. No; there were nightmares, but I have a 4-year-old girl who is spoiled, and you always think—there was nothing to corroborate anything.

Senator NICKLES. What finally broke it? How did it finally become public?

Mrs. LANDIS. Well, let me just state one thing. There are approximately 30 parents actively involved. None of us knew each other before. And how the case broke was that one of the mothers who happens to be an ex-prosecutor took her 18-month-old baby there for 2 hours. When she picked him up, he was lethargic and obviously drugged. She started calling people, and then she found out that the Department of Health and Rehabilitative Services had had a complaint which they never followed 2 or 3 months prior to that.

And if we were to have called the police, I can tell you, being a police officer, they would have responded and not believed anybody. It was just done through the State attorney's office directly.

Senator NICKLES. And eventually, the parents started talking to their children about what was going on during the day?

Mrs. LANDIS. No; I do not think anybody talked to the children, because we really did not know. What happened was that we took them in to see Joe and Laurie Braga, and Laurie and Joe did not know what questions to ask or anything, so it was not anything leading. They basically just brought the children in and got them to open up.

We would like to see the tapes, not only in our case, but in future cases, that are conducted properly without leading questions, fully taped, that they be introduced as evidence in court, prior—I am talking about the tapes prior to filing the information by the State attorney's office as probable cause for the arrest.

Senator NICKLES. Well, I sympathize with you and the ordeal that you and your child have gone through, but I also compliment you for being aggressive and trying to remedy this situation so that it does not happen again, and trying to make every effort so that if it does happen again the effects on the children involved will be minimized.

Thank you very much.

Thank you, Madam Chairman.

Senator HAWKINS. You had to retain an attorney, I am sure.

Mrs. LANDIS. Yes. Our children were supposed to be deposed by the defense attorney in the very beginning of the case, and the State attorney could not represent the children, so we hired a private attorney who came to court and objected to that, and the judge ruled in our favor. The children were not deposed—not as of yet.

Senator HAWKINS. Not yet. Did each parent retain a different attorney?

Mrs. LANDIS. No; there are two or three attorneys involved.

Senator HAWKINS. One attorney represents several children?

Mrs. LANDIS. Yes—are you trying to get to the guardian ad litem, or not?

Senator HAWKINS. No; I am saying that I know it is very expensive for you to proceed with this.

Mrs. LANDIS. Yes.

Senator HAWKINS. And a lot of parents may not want, No. 1, the publicity, and No. 2, the trauma, and No. 3, could not afford the expense, and probably before the case is over, we will have many, many attorneys involved, such as the *Manhattan Beach* case.

I hope you will be able to stay until the end of the hearing. Kee MacFarlane will be our last witness, who is a very good friend of mine and a lead witness in the *Manhattan Beach* case, and she is coming all the way from California to give us some testimony that will be very helpful in this.

Mrs. LANDIS. OK.

Senator HAWKINS. I would like to introduce Mr. and Mrs. Steve Litwin. We have seen him on television in one of the tapes here. Their child also is one of the children involved in the Country Walk School. We really do appreciate your coming and sharing with us delicate, sensitive information, but so important for the future of children everywhere. It is so wonderful that you would do this, and we just have a lot of prayers and sympathy for you and your children, and we will stay in touch with you.

Senator Dodd, we welcome you to the hearing. Do you have a statement?

Senator DODD. Oh, absolutely. I do not have any questions for the witness. We appreciate your being here very much. It is not an easy thing to do, and you are making a significant contribution to this effort by being here.

I tried to sit here and imagine what it would be like as a parent—if I were one—not only to go through that kind of trauma, but then to do what you are doing here today. And I do not think there are many people who would, quite frankly, and I think understandably so. The fact that you are here, willing to talk about this in front of a congressional committee, makes it far easier, I think, in a way, for us to secure the kind of support we need for the proposals that are being made here by Senator Hawkins and others. Without this kind of testimony, I do not think people believe it. I just think it is so far beyond the comprehension of people that they just really will not accept it, and unless there are people like yourselves willing to come forward and sit at those microphones and talk about it, I suspect that there would be the typical sort of interest that one attracts to issues like this, fleeting, passing, gone, move on to next issue. And unless you are willing to continue this kind of effort, I suspect we will get that kind of momentary passing interest in these issues, and then we will be right back where we were before.

Madam Chairman, I again want to commend you. I recall it was about a year ago, in fact, at a hearing of our Children's Caucus, which I had started with Senator Specter, in which Senator Hawkins did very much what you have done here—what I thought was one of the more courageous acts I remember of Congress in some time. And I think that single act encouraged a lot of other people to come forward.

Senator HAWKINS. Thank you.

Senator DODD. I have my disagreements with my good friend from Florida from time to time, but I have a tremendous amount of respect for her. And we all know about the statistics on this particular issue. Last year, in fact, we were lucky to get a bill passed that starts at least some educational programming in this area, where we provide some matching funds—not matching funds; 1 dollar for every 3—but it has really worked in a number of States where we are trying to get at the prevention aspect of this. What

we are talking about here is treatment and the judicial process. The real answer to this obviously is if we can just minimize this stuff from ever occurring. And that was the real intention of that bill last year. We are going to hear from some people, I think, today, Madam Chairman, who will talk about how that is working a little bit.

At any rate, I had an opening statement. I am anxious to see Kee MacFarlane. We have a woman from Connecticut, Miriam Gardner-Frum, who is here as well and will be talking about her experience in working with these issues. And as you mentioned, Kee MacFarlane, who is tremendously effective. In fact, Kee is doing such a tremendous job in Los Angeles, but I wish she had a job back here in Washington, Madam Chairman. I do not know if she is here or not this morning——

Senator HAWKINS. She will be here shortly.

One more question for you, Mrs. Landis. I know you have gone through tremendous grief and suffering and stress. Are there any counseling programs for families of victims, or are you just making out——

Mrs. LANDIS. No, there are none.

Senator HAWKINS. There are none in Dade County.

Mrs. LANDIS. No; and one of the problems that we have right now is that if our children are counseled, then by the time our case goes to court, they are going to say they were coached.

Senator HAWKINS. They will say they were coached if they have counseling in the interim before the case in July?

Mrs. LANDIS. Yes; that is my understanding of the *MacMartin* case. The children went through therapy for a year prior to giving their statements.

Senator HAWKINS. That is true. I know several of the children.

Well, we will talk with Kee about that when she is here. It is good that we can all get together. I think it points out how much parents should talk to each other at all schools. It is interesting that this is coming out in the schools. It will happen more and more, I am sure, as more and more people have careers and like to leave their children someplace. We have to be very careful where they are.

Are you running into any trouble in the Florida Legislature with your reforms?

Mrs. LANDIS. Some.

Senator HAWKINS. Some—on fingerprinting, I think I have read.

Mrs. LANDIS. I think the fingerprinting is going to pass.

Senator HAWKINS. Fingerprinting is going to pass for day-care workers?

The judicial proceedings—I have read where they are still fighting the videotaping.

Mrs. LANDIS. Believe it or not, there are people out there who do not believe this happens.

Senator HAWKINS. Oh, I would say people do not want to ever think that human beings do things that are improper, but especially if it is children. If it is children, they have no credibility, and I find they have great credibility if we will just pay attention to them, especially these ages we are talking about.

Senator Dodd.

Senator DODD. I just wanted to ask unanimous consent that my opening remarks be included in the record.

Senator HAWKINS. Surely.

[The prepared statement of Senator Dodd follows:]

STATEMENT OF SENATOR CHRISTOPHER J. DODD
SUBCOMMITTEE ON CHILDREN, FAMILIES, DRUGS, AND ALCOHOLISM
MAY 2, 1985

MR. DODD: BOTH OF US REMEMBER WELL THE SENATE CHILDREN'S CAUCUS HEARING I CHAIRED LAST APRIL WHICH KICKED OFF NATIONWIDE CONCERN ABOUT CHILDHOOD SEXUAL VICTIMIZATION. I WANT TO COMMEND YOU FOR YOUR LEADERSHIP AND INTEREST IN THIS PROBLEM, MADAM CHAIRMAN, SINCE THAT HEARING. I ALSO WANT TO EXPRESS MY HOPE WE WILL SPEND AS MUCH TIME AS IS NEEDED IN THIS SUBCOMMITTEE FOCUSING ON THE PROBLEM OF CHILD SEXUAL ABUSE AND ALL ITS MANY FACETS.

BY EVEN THE MOST CONSERVATIVE ESTIMATES, A CHILD IS SEXUALLY ABUSED SOMEPLACE IN THIS COUNTRY EVERY TWO MINUTES. LAST SESSION, I FOCUSED MUCH OF MY LEGISLATIVE EFFORTS ON PREVENTION AND TREATMENT PROGRAMS DESIGNED SPECIFICALLY TO BREAK THE TRAGIC CYCLE OF SEXUAL AND PHYSICAL ABUSE IN THIS COUNTRY. AS A RESULT OF THE SENATE CAUCUS HEARING LAST YEAR, I INTRODUCED LEGISLATION NOW ENACTED INTO LAW TO HELP STATES SET UP SPECIAL FUNDS FOR COMMUNITY BASED PREVENTION ACTIVITIES.

ONCE FUNDS ARE APPROPRIATED FOR THE CHILD ABUSE PREVENTION FEDERAL CHALLANGE GRANTS ACT, ONE FEDERAL DOLLAR WILL BE AVAILABLE FOR EVERY THREE DOLLARS STATES COLLECT IN SPECIAL PREVENTION FUNDS. THESE FUNDS CAN BE USED TO SUPPORT SOME OF THE ISSUES WE WILL EXAMINE IN THIS HEARING THIS MORNING, NAMELY THE SPECIALIZED TRAINING OF POLICE OFFICERS, JUDGES, PROSECUTORS, CHILD WELFARE WORKERS, AND OTHERS. THE DISTINGUISHED WITNESS FROM MY STATE OF CONNECTICUT, MIRIAM GARDNER-FRUM, IS GOING TO COMMENT ON THE NECESSITY OF SUCH INTERDISCIPLINARY TRAINING.

LAST SESSION I ALSO FOCUSED A GREAT DEAL OF ATTENTION ON RESTORING THE FUNDS CUT IN 1981 FROM THE BASIC FEDERAL CHILD ABUSE TREATMENT PROGRAM. AT THAT TIME, FUNDS TO TREAT VICTIMS OF SEXUAL ABUSE WERE ELIMINATED. I AM VERY PROUD TO REPORT THAT I RESTORED THOSE FUNDS IN THIS COMMITTEE AND THAT CONGRESS PASSED THOSE RESTORATIONS INTO LAW LAST OCTOBER. KEE MCFARLANE, WHO TESTIFIED AT THE CAUCUS HEARING LAST APRIL WILL BE HERE

TESTIFYING AGAIN HERE THIS MORNING. HER JOB AS THE NATIONAL EXPERT ON CHILD SEXUAL ABUSE WAS ELIMINATED WHEN THE FUNDS WERE CUT IN 1981. AS MAGNIFICENT AS THE WORK SHE IS DOING NOW WITH SEXUALLY ABUSED CHILDREN IN LOS ANGELES, I WOULD LIKE HER TO KNOW THAT HER OLD JOB WITH THE FEDERAL GOVERNMENT WILL BE AVAILABLE AGAIN SOON. MANY OF US IN THE SENATE WOULD BE DELIGHTED TO HAVE HER TAKE THAT JOB ON AGAIN.

AT THIS MORNING'S HEARING, WE WILL BE EXAMINING THE ADDITIONAL TRAUMAS WHICH FAR TOO MANY CHILD SEXUAL ABUSE VICTIMS FACE WHEN THEIR CASES COME TO COURT. STATES FROM CONNECTICUT TO CALIFORNIA HAVE SET UP TASK FORCES TO BRING TOGETHER REPRESENTATIVES OF THE JUDICIAL SYSTEM AND THE CHILD WELFARE SYSTEM, RECOMMENDING CHANGES TO REDUCE TRAUMA TO THE CHILD VICTIM AND TO IMPROVE CHANCES OF SUCCESSFUL LEGAL ACTION AGAINST OFFENDERS. I UNDERSTAND THAT SENATOR CRANSTON WILL TESTIFY ABOUT THE RECOMMENDATIONS OF THE CALIFORNIA TASK FORCE. LIKEWISE, MIRIAM GARDNER-FRUM WILL COMMENT ON SOME OF THE RECOMMENDATIONS

COMING OUT OF THE CONNECTICUT TASK FORCE.

LET ME SAY AT THIS POINT, MADAM CHAIRMAN, I WOULD LIKE TO WORK WITH YOU TO IMPROVE THE HANDLING OF SEXUAL ABUSE CASES IN ALL OUR STATES. THE LEGISLATION YOU HAVE INTRODUCED, "THE CHILDREN'S JUSTICE ACT," PROVIDES A START. HOWEVER, I PLAN TO INTRODUCE PROVISIONS WHEREIN STATES WOULD BE ENCOURAGED TO SET UP AN ONGOING PROCESS OF REVIEW ON THESE ISSUES.

I KNOW THAT THE CONNECTICUT TASK FORCE HAS FORCED LAWYERS AND CLINICIANS TO SIT DOWN AND STRATEGIZE TOGETHER TO IMPROVE THE RESPONSE OF THE LEGAL SYSTEM TO CHILD ABUSE VICTIMS. LIKEWISE, THE MAINE WORKING GROUP ON CHILD ABUSE LEGAL PROCEEDINGS HAS ISSUED A STELLAR LIST OF RECOMMENDATIONS TO EXPEDITE COURT CASES INVOLVING CHILD ABUSE AND TO PROTECT CHILDREN BY BETTER COORDINATING THE EFFORTS OF ALL STATE AGENCIES INVOLVED IN CIVIL AND CRIMINAL ABUSE CASES.

I HOPE TO INTRODUCE LEGISLATION TO ENCOURAGE STATES TO SET UP SUCH ONGOING REVIEW PROCESSES IN THE NEAR FUTURE, MADAM

CHAIRMAN. I WILL ASK MY STAFF TO WORK WITH YOURS TO SEE ABOUT MELDING THE PROPOSALS, AS WELL AS SEVERAL PROPOSALS I KNOW SENATOR CRANSTON WILL MAKE TO INCREASE THE ROLE WHICH THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT CAN PLAY IN ASSISTING STATES TO PROTECT CHILDREN FROM FURTHER ABUSE WHEN COURT PROCEEDINGS ARE INITIATED.

IN CLOSING, WE SHOULD NOT FORGET THE IMPORTANCE OF APPLYING MANY OF THE RECOMMENDATIONS WE HEAR THIS MORNING TO CASES INVOLVING PHYSICAL ABUSE. IN MY STATE OF CONNECTICUT, THE DEATH RATE FROM PHYSICAL ABUSE TRIPLED BETWEEN 1980 AND 1982. IN STATES SUCH AS UTAH, THAT FIGURE WAS EVEN HIGHER.

I WOULD LIKE TO THANK OUR DISTINGUISHED GROUP OF WITNESSES FOR APPEARING THIS MORNING. WITH YOUR EXPERT GUIDANCE, WE CAN DESIGN PROGRAMS TO HELP STATES SOLVE THE PRESSING PROBLEM OF PROTECTING CHILDREN WHO HAVE BEEN ABUSED OR NEGLECTED FROM FURTHER TRAUMA AT THE HANDS OF THE LEGAL SYSTEM.

Senator HAWKINS. Our next witness will be Miriam Gardner-Frum, from Meriden, CT. She is part of an interdisciplinary team that works with victims of sexual child abuse.

STATEMENT OF MIRIAM GARDNER-FRUM, COORDINATOR, COORDINATED CRISIS INTERVENTION PROGRAM OF THE CHILD GUIDANCE CLINIC, MERIDEN, CT

Ms. GARDNER-FRUM. Good morning.

I would, before my testimony, just like to add my respect to the Landises for their courage to come here to testify, and I hope that they help to rivet our commitment to the kinds of necessary changes that we need to have that we see before us.

My name is Miriam Gardner-Frum, and I am the coordinator of the Coordinated Crisis Intervention Program of the Child Guidance Clinic in Meriden, CT. In my capacity as coordinator of the CCIP, I chair the local Sexual Abuse Resource Team, also known as SART.

Meriden's SART is comprised of over 29 professionals from the medical, mental health, protective services, and legal systems who are working together to improve the efffectiveness in identifying and treating victims of sexual abuse and their offenders. Additionally, I am a member of the Connecticut Statewide Task Force on Child Sexual Abuse.

I am here to testify on the importance of the Children's Justice Act and the need for additional grants to the States for reduction of trauma to the child victim.

Without such incentives, we risk tolerance of crimes we say we abhor. We continue to tolerate sexual abuse of children, because we continue to process cases through an adversarial criminal justice system that is weighted against the child at virtually every level. We continue to tolerate sexual abuse of children because in many communities, mental health, children's protective services, medical, and the criminal justice systems continue to work in an isolated and uncoordinated manner.

We continue to tolerate sexual abuse of children because we fail to link punishment of a convicted offender to treatment. We continue to tolerate sexual abuse when we neglect to provide special training to individuals responsible for the investigative interviewing of children when sexual assault is suspected.

Those of us who are fortunate enough to work in communities where innovative or model treatment programs have been implemented know first-hand the importance of enacting the types of legal and administrative changes promoted by the Children's Justice Act.

Prior to the formation of an interdisciplinary team in our community, attempts to coordinate court proceedings and provide appropriately for the sexually abused child and child molester were akin to standing at the tower of Babel. Each system has its own language, and strenuously protects its own turf.

The criminal justice system was reluctant to refer the offender to the mental health professionals. Mental health professionals hid behind professional perrogatives regarding confidentiality and unwittingly contributed to the dynamics of secrecy that reinforced the offender's position of power and control over the victim.

Mental health and medical professionals were likewise reluctant to turn cases over to law enforcement officials and child protection agencies whose workers usually lack the specialized skills, experience, and supervision required to deal with the volatile and delicate issue of child sexual abuse.

Through interdisciplinary teams, the right hand now knows what the left hand is doing. We have come to share the same expectations regarding treatment and the need for reforms designed to improve the chances of successful prosecution of child molesters.

In our community, we have reached the consensus that sex offenses must be considered first and foremost a criminal act, and that treatment should never take place in lieu of criminal prosecution.

The provision of support and treatment to the victims and their families throughout the ordeal of the court process and beyond has resulted in speedier and more successfully prosecuted cases. In some cases, parallel involvement of the offender in a pre-trial evaluation in our sex offender program has resulted in the reduction of trauma to the child by removing the need for the child to act as a witness because of our success in getting the offender to take responsibility for his criminal behavior and to enter a plea of guilty.

Yet despite these advances, many problems remain. We are only at the beginning stages of providing remedies to the problems that have been uncovered since the enactment of the Child Abuse and Treatment Act of 1974.

In order to reduce the trauma to the victim, we need more appropriately trained staff at each of the intersecting systems. We also need a criminal justice system that can use procedures that offer maximum support and comfort to the already traumatized child witnesses. Modifications in the hearsay rule that take into account the special circumstances of child sexual abuse are long overdue.

Such changes have been successfully made in a handful of States—for example, a Texas law which establishes procedures for the videotaping of victims' statements has been implemented with good results; and a 1983 Utah bill where a child is considered a competent witness has also received success.

These much-needed reforms have not yet reached and been initiated in Connecticut and many other States. This bill would provide the needed incentives to move all of the States closer to our goal of improving the chances of successful prosecution against child molesters, and subsequently providing adequate treatment programs for the sexually abused child, the victim's family and the child molester.

However, given the level of denial that often permeates the area of child sexual abuse, States may continue to be reluctant to institute reforms. The broadness of this bill offers States the option of not passing some essential legislation.

I would therefore recommend some additional areas that should be more specific. There must be a mechanism to identify the problems and gaps in statutory and administrative procedures on a Statewide basis. In Connecticut, this has led to the formation of the Connecticut Statewide Task Force on Child Sexual Abuse. The goal of the task force is to improve the prevention, intervention and treatment programs in Connecticut. This is accomplished by pro-

viding an interdisciplinary forum for the exchange of ideas and for the planning of improvement within and between existing systems which work to address the problem of child sexual abuse. Fiscal support for this effort is crucial for its continuation.

Establishment of statewide as well as local interdisciplinary teams is critical to our progress. Mandatory inclusion of representatives from the legal, judicial, protective services, mental health, medical, law enforcement, and child welfare systems in the composition of these teams at both the local and statewide level is recommended. Due to the broad scope of the bill, vital components may be omitted.

Other recommendations include provisions for mandatory training of personnel in all of the above systems. Also, I would interpret the coordinated court proceedings for handling intra-familial child sexual abuse cited in the bill to mean coordination of treatment and advocacy work with criminal proceedings.

Finally, I would recommend a separate vehicle to carry this important bill, other than the Child Abuse Prevention and Treatment Act, so as not to detract from this act's primary purpose and function.

Let us move forward with the recommended judicial reforms, so that we may translate our indignation into a national policy.

Thank you.

Senator HAWKINS. Thank you very much.

I understand you serve on, as you stated, the local interdisciplinary team that deals with the sexual child abuse situation, as well as the State of Connecticut Task Force.

Ms. GARDNER-FRUM. Yes.

Senator HAWKINS. Do most of the local jurisdictions have interdisciplinary teams?

Ms. GARDNER-FRUM. Not specific to child sexual abuse. Most of the regions have child protection teams which offer consultation to cases, but not all of the regions have sexual abuse resource teams such as the one I described. There are approximately 20 child sexual abuse prevention teams throughout Connecticut.

Senator HAWKINS. The one you described had legal counseling, child protection workers, et cetera. Is there any friction when you have those different specialties on one committee?

Ms. GARDNER-FRUM. Always—which is why they are so necessary, because the two systems really collide with each other when they get together; blaming each other for their own frustrations at how cases may or may not be dealt with. But I think it is essential that they do get together. This is the only way that reforms can be developed.

Senator HAWKINS. Did you hear Mrs. Landis' testimony where she said if her child gets counseling, that would be considered coaching and may jeopardize the case?

Ms. GARDNER-FRUM. Yes.

Senator HAWKINS. Is that your experience in Connecticut?

Ms. GARDNER-FRUM. I have not had an experience where that has been an issue. I am aware that it has been raised as a defense to a case.

It points, though, to the fact that it takes so long for the cases to come to trial. In Connecticut, it might have taken a year and a half

to 2 years before a child sexual abuse case came to trial. If the cases could be heard in a much more expeditious way, you would not have that concern. Children need to begin the healing process, immediately. Children and their families need the support and counseling, so that they can get on with their life; and having the court proceedings as soon as they possibly can would be beneficial.

Senator HAWKINS. Absent the expediting of the case by the court system, Mrs. Landis testified that her daughter had been abused probably from the age of 3 to 4 before they discovered it. That would be 1 year of abuse, and they will have another year waiting for trial. What is your recommendation to get counseling as rapidly as possible, other than mandating the judge to hear the case as soon as possible, which I doubt we can do right now. What would be a recommendation from a specialist like yourself—who is going to be a lawyer, I understand?

Ms. GARDNER-FRUM. We cannot ask children or their families to hold their lives up while the court plods along. I would suggest aggressive reforms in the judicial system to take account for the needs of the child victims and their families. One thing that Connecticut is able to do in our New Haven region is to have these cases of priority and therefore be able to hear the cases sooner. I absolutely recommend the child and family get immediate counseling.

Senator HAWKINS. Is there a way to have counseling not be used as coaching?

Ms. GARDNER-FRUM. I think that defense attorneys need a lot of education. That has certainly been one of the problems I have had with the legal system. As the videotape illustrated, defense attorneys can confuse children and trap them—as they often do with adults. Children are no match to a defense attorney. They are children, and we need to use their language. Counseling affords the child a way to work through the trauma and to better articulate the incident. There is little difference between that an adult being prepared for testimony.

I do not think that we can, ask children to put their lives on hold, and I think that rather than to try and controvert the beneficial aspects of treatment, we should push the judicial system into making reforms.

Senator HAWKINS. Senator Dodd.

Senator DODD. Thank you very much, Madam Chairman.

Miriam, we welcome you here today and appreciate your coming down from Connecticut. As was pointed out, you have spent a good number of years working with this issue in Meriden.

I am intrigued with the comment you make about the turf protection that goes on in all the various related agencies. We kind of focus—and we are today, obviously—on the judicial system and what happens there. But there are a variety of other agencies, State and local, that are involved in these issues because of the nature of them, and what I thought I heard you describe as "turf protection".

I wonder if you could comment a bit more on that. It is one thing to run into—once you get into the court system, it is an adversarial system, and I do not know how you are ever going to get out of that particular problem. There are these delicate questions of how

long does it take to get to trial, and obviously, the trauma of an infant, what they are going through; you want to provide counseling; what is happening to parents in the process, and obviously, the accused as well. And our system of justice is something we do not take lightly. In this particular arena, obviously, it is one where the emotions run particularly high.

Putting aside that one for a second—I do not know how we are going to resolve that with a piece of legislation, quite frankly—but I think there may be some things we can do in this area of turf protection with the agencies that are not specifically involved in the judicial process as such, but may be drawn into it because of the nature of the case. Why does that occur? In Connecticut, for instance, why do we have a situation where you have got various agencies that are not judicial in nature—why can't they get along on an issue like this? What is the problem?

Ms. GARDNER-FRUM. I am not sure that I can answer that fully, because it is an extremely complicated issue. One illustration is within the clinical system, where a clinician will feel quite protective of a client that they are seeing.

Senator DODD. Protective of the client.

Ms. GARDNER-FRUM. Right, either in protecting them from further abuse, from the legal system in terms of multiple interviewing that they do not feel any other type of intervention is appropriate.

I think we have seen that traditional mental health has not been working with these kinds of situations or these kinds of families. We need to have crisis centers or easy access to centers that have the capability to make evaluations and recommendations. We need action advocates. We need sufficient services for the children and their family. We need to have coercive treatment for offenders. We need to have those systems linked up with the criminal justice system. Under the veil of confidentiality or simply protectivism, I think people in the treatment field have not trusted other systems to do the work that they feel is needed.

In addition to that, I think a lot of people are very uncomfortable and unsure about what is the appropriate kind of treatment. Also the clinicians are frustrated that the court system takes so long; that there are multiple interviews; that, for example, a child the media may identify for having been a victim. Many people have to weigh and balance whether or not they should even come forward, because they might be subjected to a treacherous criminal process.

There is frustration among the State-mandated investigating agencies that if an offender, let us say, is within a family and refuses to leave the home, the child has to be removed. People in the clinical system do not understand that; that seems very unjust. And I believe part of the bill reflects restraining orders against the offender who lives in a home, which is critical. We have that for battered women, but we do not have that for children.

Systems don't speak the same language. They go according to different protocols and procedures. During an initial committee meeting of the Statewide Task Force Legal Intervention Committee, the legal and the mental health professionals met and collided. The level of trust was very low. There was a lot of blame and frustration placed on each other. Through subsequent meetings, we are beginning to peel away some of the issues and come to some kind

of a common ground, and arrive at some common shared philosophy.

Senator DODD. Yes; what you are recommending—and I think it is very constructive and positive—we have that Connecticut statewide task force which is, as you described it, trying to take all of those elements you have just mentioned and draw them together, so that we have some sense of what exists and what the present problem is, and then from that framework decide—or try to decide, anyway—a better way to improve that system through our own State statutory system.

Ms. GARDNER-FRUM. Right.

Senator DODD. With these things, one of the problems we get up against is there is "death by task force" where, every time there is a problem there is a task force—and I hesitate to even mention it. A commission or a task force is kind of a politician's panacea for a problem, and I am reluctant to even bring them up, except that I do think from time to time, they do work.

How much time is this thing going to take? I mean, will this thing go on for years? Is it just another way to spend some tax dollars—or is it working, is it possible to really achieve anything through that particular vehicle?

Ms. GARDNER-FRUM. We are talking about major social change, about change in values and perceptions. One of the things the Landises alluded to was that people still do not believe this happens; people do not believe children can even be competent to make those kinds of statements. People need to be educated and our laws need to reflect our support of a child's right in not being abused.

It may take a while, but I think the investment is absolutely critical and worthwhile, because it is our children. We know from survivors from incest and sexual abuse that the trauma, if it is not dealt with as children, continues and festers. It is not something that goes away. I think it is worth it.

Senator DODD. Well, how long is this going to take in Connecticut, for instance, before it will come up with some recommendations?

Ms. GARDNER-FRUM. Well, Connecticut being as advanced as it is——

Senator DODD. Thank you.

Ms. GARDNER-FRUM [continuing]. May take less than a decade.

Senator DODD. A decade?

Ms. GARDNER-FRUM. I would say a few years. We are in our first year. Our local sexual abuse resource team started in 1981, and I say today that we probably have a fairly well-networked system in the Meriden-Wallingford area. We still have problems, we still have frustrations. We write grants to fill in the gaps in services. Instead of banging down the doors of our State's Attorney's Office when things are not working, our State's attorney works closely with us.

The group is a viable one, where information and concerns are filtered. But this local group will continue as long as it serves a coordinating and problem solving function. The Statewide task force is certainly one that is viable, has an enormous and well-defined task and has a large group of committed members.

Senator DODD. Well, you have got a very receptive State legislature.

Ms. GARDNER-FRUM. Yes.

Senator DODD. I must tell you, we had a State Representative by the name of Julie Bologa, who is of the other persuasion, as we say, but a very good friend of mine, who has done a tremendous job. She and I worked for a year on a survey in the State on some of these issues. They were broader than just children's issues. But she came up with an agenda for the State legislature. We, as you know, worked on one down here, but together, so they are trying to complement each other. And I think that legislation on mine, the one on the matching funds, for instance, has already gone through as a whole package, and it is a very receptive State legislature on these issues.

And when I raised my eyebrows on the decade, it is because I have seen what has happened in the past on issues that are important. We have got, I think, a very receptive community today in the country as the result of a number of things, not the least of which is people like the Landises and others coming before a committee like this.

I just do not want to see what has happened in the past with other issues, where the klieg lights are on, the cameras are all here, and people always have a lot to say and do, and then all of a sudden, some other hot issue comes along, and this takes the back seat to something else, and we have not dealt with the problem effectively.

So I would hope that with that kind of receptive community we have now to doing something in this area, we do not lose the opportunity and spend a decade and a half talking to each other and not really getting something done.

Ms. GARDNER-FRUM. Absolutely.

Senator DODD. Even in Connecticut, that decade scares me. If we take ten years on this, I am afraid we will not get anything done.

Ms. GARDNER-FRUM. I may have been a little flip. When we know that we have an ongoing kind of a task force, with very definite tasks and identified problems, it assures people the problems are being dealt with planfully. These problems that have been identified will take major social change, increased awareness and an enormous effort at determining what is in the best interest of children. It will not go away when the spotlights are off, because the problem won't go away and neither will we.

Senator DODD. Well, I am glad to hear that. I really thank you again for coming this morning.

I did not mean to take so much time, Madam Chairman.

Senator HAWKINS. Well, we thank you for your sensitivity and your specialized knowledge and hope you can put it to work in the legal profession. I still see two different courses, the social workers going off on this course, and the law enforcement division going off on that tangent.

Thank you very much.

Ms. GARDNER-FRUM. Thank you.

[The prepared statement of Miriam Gardner-Frum follows:]

TESTIMONY OF MIRIAM GARDNER-FRUM

CHILD GUIDANCE CLINIC
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My name is Miriam Gardner-Frum and I am coordinator of the Coordinated Crisis Intervention Program of the Child Guidance Clinic in Meriden, CT. In my capacity as coordinator of the CCIP, I chair the local Sexual Abuse Resource Team (also known as SART). Meriden's SART is comprised of over 29 professionals from the medical, mental health, protective services, and legal systems who are working together to improve the effectiveness in identifying and treating victims of sexual abuse and their offenders. Additionally, I am a member of the Connecticut Statewide Task Force on Child Sexual Abuse.

I am here to testify on the importance of the Children's Justice Act and the need for additional grants to the state for reduction of trauma to the child victim.

Without such incentives, we risk tolerance of crimes we say we abhor. We continue to tolerate sexual abuse of children because we continue to process cases through an adversarial criminal justice system that is weighted against child victims at virtually every level. We continue to tolerate sexual abuse of children because in many communities mental health, children's protective services, medical, and the criminal justice systems continue to work in an isolated and uncoordinated manner. We continue to tolerate sexual abuse of children because we fail to link punishment of the convicted offender to treatment. We continue to tolerate sexual abuse when we neglect to provide special training to individuals responsible for the investigative interviewing of children when sexual assault is suspected.

Those of us who have been fortunate enough to work in communities where innovative or model treatment programs have been implemented, know first hand the importance of enacting the types of legal and administrative changes promoted by the Children's Justice Act.

Prior to the formation of an interdisciplinary team in our community, attempts to coordinate court proceedings and provide appropriate treatment for the sexually abused child and the child molester were akin to standing at the Tower of Babel. Each system had its own language, and strenuously

protected its own turf. The criminal justice system was reluctant to refer the offender to the mental health professionals. Mental health professionals hid behind professional perogatives regarding confidentiality and unwittingly contributed to the dynamics of secrecy that reinforce the offender's position of power and control over the victim. Mental health and medical professionals were likewise reluctant to turn cases over to law enforcement officials and child protection agencies whose workers usually lacked the specialized skills, experience and supervision required to deal with the volatile and delicate issues of child sexual abuse. Through interdisciplinary teams, the right hand now knows what the left hand is doing. We have come to share the same expectations regarding treatment and the need for reforms designed to improve the chances of successful prosecution of child molesters.

In our community, we have reached the consensus that sex offenses must be considered first and foremost a criminal act and that treatment should never take place in lieu of criminal prosecution.

The provision of support and treatment to the victim and their family throughout the ordeal of the court process and beyond has resulted in speedier and more successfully prosecuted cases. In some cases, parallel involvement of the offender in a pre-trial evaluation in our sex offender program has resulted in the reduction of trauma to the child by removing the need for the child to act as a witness because of our success in getting the offender to take responsibility for his criminal behavior and to enter a plea of guilty.

Yet, despite these advances, many problems remain. We are only at the beginning stages of providing remedies to the problems that hve been uncovered since the enactment of the Child Abuse and Treatment Act of 1974.

In order to reduce the trauma to the victim, we need more appropriately trained staff in each of the intersecting systems. We also need a criminal justice system that can use procedures that offer maximum support and comfort to the already traumatized child witness. Modifications in the hearsay rule

that take into account the special circumstances of child sexual abuse are long overdue. Such changes have been successfully made in a handful of states, for example a Texas law which establishes procedures for the videotaping of victims statements has been implemented with good results and a 1983 Utah Bill where a child is considered a competent witness. These much needed reforms have not yet been instituted in Connecticut and many other states. This bill would provide the needed incentive to move all of the states closer to our goal of improving the chances of successful prosecution against child molesters and subsequently providing adequate treatment programs for the sexually abused child, the victim's family and the child molester.

However, given the level of denial that often permeates the area of child sexual abuse, states may continue to be reluctant to institute reforms. The broadness of this bill offers states the option of not passing essential legislation. I would recommend additional areas that should be more specific.

There must be a mechanism to identify the problems and gaps in statutory and administrative procedures on a statewide basis. In Connecticut, this has led to the formation of the Connecticut Statewide Task Force on Child Sexual Abuse. The goal of the Task Force is to improve the prevention, intervention and treatment programs in Connecticut. This is accomplished by providing an interdisciplinary forum for the exchange of ideas, and for the planning of improvement within and between existing systems which work to address the problem of child sexual abuse. Fiscal support for this effort is crucial for its continuation. Establishment of statewide as well as local interdisciplinary teams is critical to our progress. Mandatory inclusion of representatives from the legal, judicial, protective services, mental health, medical, law enforcement, and child welfare systems in the composition of these teams at both the local and statewide levels is recommended. Due to the broad scope of the Bill vital components may be omitted.

Senator HAWKINS. Our next panel will be discussing the legal impediments to successful prosecution, corroboration, testing for prior competency, videotaping, statutory hearsay exceptions.

We welcome first Jo Bulkley, Washington, DC, author and reporter for the American Bar Association's 1982 Report and Recommendations for Improving Legal Intervention in Intrafamily Child Sexual Cases. She is testifying on the results of her research on this issue during the past 5 years.

Also, we have Debra Whitcomb, from Cambridge, MA, the principal investigator for Abt Associates. They have the National Institute of Justice contract for the project entitled: "When the Victim is a Child: Issues for Judges and Prosecutors."

And our third panel member is Mr. Jack E. Yelverton, executive director of the National District Attorneys' Association, accompanied by Mr. Robert "Bud" Cramer of Huntsville, AL.

I understand, Josephine, that you are testifying today in your own capacity and not in behalf of the American Bar Association, a disclaimer we tried to put with your testimony. I am glad you have agreed to testify at our request because of your involvement in this issue and your research, and we would like you to begin.

STATEMENT OF JOSEPHINE BULKLEY, PROJECT DIRECTOR, CHILD SEXUAL ABUSE LAW REFORM PROJECT, NATIONAL LEGAL RESOURCE CENTER; DEBRA WHITCOMB, PRINCIPAL INVESTIGATOR, ABT ASSOCIATES, INC., CAMBRIDGE, MA; AND JACK E. YELVERTON, EXECUTIVE DIRECTOR, NATIONAL DISTRICT ATTORNEYS' ASSOCIATION, ACCOMPANIED BY ROBERT "BUD" CRAMER, HUNTSVILLE, AL

Ms. BULKLEY. Thank you, Madam Chairperson and members of the subcommittee.

I would like to express appreciation to Senator Hawkins for the opportunity to testify before this subcommittee. I have been working on legal issues related to child sexual abuse since 1980, and have researched and published a number of articles and books on the subject and lectured extensively throughout the country.

Specifically, in 1982, the most important work that came out of the project at the American Bar Association, which I will mention later, was the recommendations for improving legal intervention in child sexual abuse cases, which synthesized the research and findings of a project funded by the National Center on Child Abuse and Neglect which, of course, is the agency responsible for administering the Federal child abuse laws and is also where the money would be coming from your current bill. So I think you should feel pleased that the money from the Federal Child Abuse Act has gone to efforts such as ours over the last 5 years, that recommend improvements in the legal handling of sex abuse cases.

The project that I am working for is a project of the National Legal Resource Center for Child Advocacy and Protection at the American Bar Association offices in Washington, and the center is a project of the Young Lawyers Division of the ABA.

As Senator Hawkins mentioned, I must make it clear that I am testifying in my private capacity, because the ABA does not have an official policy position on this bill or on the issues addressed in

this bill. However, it does have two broad resolutions, encouraging attorneys and members of the legal profession to improve their handling of child abuse and molestation cases. Indeed, there is also currently under consideration a set of guidelines within the Criminal Justice Section of the ABA as well as our Young Lawyers Division that may indeed go to the House of Delegates sometime during the next year for approval by the American Bar Association as official policy. And many of these guidelines are very similar to some of the examples in your legislation as well as our Recommendations.

Before we developed the recommendations, we were funded by NCCAN in 1980 to do the first survey in the United States of the laws and legal issues, as well as to look for innovative prosecutorial practices and programs that improve the handling of these cases in the legal system. Following the publication of two major reports and dissemination widely around the country, the National Center requested that we develop guidelines or suggestions for States to help them adopt these reforms. Kee MacFarlane, who has been mentioned already, who will be testifying later, was my project officer at the National Center, and she and I worked very closely in developing these recommendations.

The recommendations also were reviewed by experts outside the ABA who are experts in the area of child sexual abuse.

Today, I am still funded at the ABA in a project called the Child Sexual Abuse Law Reform Project, where we are trying to implement some of these recommendations in the States. I am working with four target sites—Cambridge, MA; Charleston, SC; Cleveland, OH, and Annapolis, MD—to help them get some of these reforms passed.

We also sponsored a major national policy conference in March, for which there are papers available from our office, as well as our other publications, where experts, some of whom are going to be here today—Debra Whitcomb, Bud Cramer, Kee MacFarlane—got together, wrote papers, and presented them, criticizing and analyzing some of the new and innovative reforms that have developed so rapidly in the last year.

The conference was intended not just as an opportunity to recommend that these reforms be adopted, but to critically analyze them and see what some of the problems were and some of the unforeseen negative consequences, some of which I may mention today because while I think we need to move in this area, we also need to be cautious, to assure we are not jeopardizing fundamental Constitutional rights or in fact causing greater trauma than we originally had thought with some of the procedures.

I will try to summarize my testimony, and I would like to submit my written testimony for the record.

Senator HAWKINS. Surely.

Ms. BULKLEY. Basically, our recommendations parallel your legislation in that we seek to—or, in there, we found that the three major areas needing reform were: reducing trauma to children, improving prosecution through alleviation of evidentiary restrictions and preventing further abuse through treatment as well as alternative dispositions.

I think we have to remember that though we are finding more and more reports of this problem now, it has really only been in the last 10 years that there was even any awareness that the problem existed at all, and it was not until the late 1970's that we began to see more criminal prosecutions of these cases. Indeed, before, child abuse, particularly physical abuse, as well as neglect of children by parents, was solely handled or primarily handled in the juvenile court system and the child protection system. Only cases involving death or severe beating of a child would result in criminal prosecution.

Yet with sexual abuse, for reasons that are both positive as well as, perhaps, not agreed upon by all child welfare and mental health professionals, criminal prosecution has been felt to be extremely important. As a result, there are problems we never realized, I think, with young children in the criminal justice system, in terms of both proof difficulties as well as their ability to be witnesses.

In addition to that, of course, is the trauma they may be experiencing, the double jeopardy, undergoing some of the procedures that I will mention in a minute.

The areas that we found in our survey of laws and practices throughout the country involve first, as I said, the need to reduce trauma. This is because the system has repeatedly dragged children through the court process by continuous interviews with multiple professionals. It has involved medical exams that were extremely insensitively performed—children often testifying at grand jury or preliminary hearing as well as at trial and being subject to cross-examination.

These areas can be dealt with through a variety of reforms that may not even require state legislation. Such ideas include reducing interviews through videotaping—although, there are some problems with videotaped interviews—joint interviews, or setting up special rooms in which children can feel comfortable. A special advocate can be appointed to represent the child in a court proceeding both in the juvenile and criminal courts.

The other area, of course, that we have gotten involved in looking are is the evidence restrictions. The major areas that are a problem in proving these cases are the fact that you have an extremely young victim, usually no other evidence—either eyewitness evidence or physical or medical evidence—and in the past, there was often a requirement in many States that the victim's testimony be corroborated by additional evidence. In other words, you could not prosecute a case unless you had, in addition to the child's testimony, other evidence.

I will say today, as of about a month ago, no State now requires corroboration for the most serious sex offenses against children. So we are moving along in that area, although there are some types of sex offenses for which it is still required and should be abolished.

Another area where there are serious problems of evidence is the need to get into evidence child's statements that they make out of court, which can either substitute for the child's testimony, assuming the child is found to be an unavailable witness due to the child's young age and incompetency, or other reasons, and the statement meets constitutional requirements.

Hearsay exceptions exist for statements to be admitted into evidence, but many of them are extremely narrow to allow in statements that may help in proving a case. If the child does testify, this statement can be used to show that at an early time in the case, a statement was made and can corroborate her testimony.

Perhaps the major area people seem interested in, as well as State legislatures, is the use of alternatives for a child's testimony to spare the child the trauma of testifying in an open court setting. Various means are being proposed for this. There are now at least 15 States we have heard of several others recently, and we do not have copies of those—that have adopted videotaping or closed-circuit television alternatives for a young child's testimony.

We have analyzed these statutes in a recent publication, and many of them, while again, they have a salutary purpose, have many flaws in terms of their constitutionality. And I think as we begin to adopt some of these approaches, we need to carefully examine the effects of them. In any event, these are means, especially if they do not violate Constitutional rights, that can help children testify under less stressful conditions.

We are concerned about some of the constitutional issues, and I would now like to speak briefly to the legislation. I think it is an excellent piece of legislation. My several basic suggestions would be in terms of hopefully amending it before it is enacted, and would be to consider whether you may want to require States to adopt specific reforms. There are benefits and disadvantages. I am not sure which way I would go, but I think it ought to be considered as another possibility.

The negative aspects of the current legislation are that the three areas that have been identified as so broad that since the early Eighties, because of some of our work, increasing prosecutions and more public awareness of this problem, most States will meet at least one of those areas in some way. In other words, most States will probably have either a procedure or a statute that would reduce trauma to children, enhance prosecutions, or prevent further abuse.

What this legislation would then have—the effect would be that most States would be in compliance immediately. That is not to say all States would, and what I would point out is that most States still do not have most reforms. Although States have special hearsay exceptions, there are 38 that do not. Over half the States still have not abolished competency tests for children. That is perhaps the area most advocated by prosecutors for reform. Until recently, the majority of States provided that children under 10 or 14, generally, would have to be tested through a series of questions and a hearing to determine if they were qualified to testify as a witness. This was based on attitudes about children's credibility, that they could not tell the difference between truth and a lie, that they tended to lie more than adults, that, particularly in sex offense cases, was the added factor that people who made sex charges were making false charges. This, too, has been discredited in part because of the rape reform movement, that in fact, false reports for sex crimes are no greater than for any other crime. Some of the new research on children's abilities shows that they are far greater than we once knew. Various psychologists have shown through

their research that children's memories may not indeed be any worse than adults'; that in fact, there is little correlation between age and honesty, and that children as young as 3½ to 4 can give effective, reliable testimony.

It is in this area, for example, that 22 States now have—which legal commentators have recommended for many years a law which allows every person to be a competent witness. This would be a rebuttable presumption, meaning that you could still challenge the competency of a child as you might any other witness if you believe they are incompetent, but there would no longer be an automatic hearing to determine competency.

So indeed, there is still room for many States to adopt this particular reform. This is one area where you may want to consider actually imposing on States the requirement to abolish competency tests for children.

The problem with and the disadvantages of putting specific requirements in are that we really do not know the effects of many of these reforms yet. While we have had many years of experience in some of these areas—for example, in Seattle, WA, Lucy Berliner has been working with sexual offense victims, children, for many years, and has seen kids testify day after day, effectively and reliably.

We can say, I think, for sure in certain areas that are not controversial, that do not impinge on defendants' rights, at this point, I think we could say, yes, let us reduce delays, let us reduce interviews, let us coordinate proceedings, let us have teams. And I think I am ready to say yes, we can say, States, you should have these things, without causing great controversy on the part of the defense bar and without, I think, courts reacting. But I think in some areas, we must be more cautious, perhaps those relating to the courtroom, perhaps those relating directly to the rights of the defendant—and what are those rights?

Under our Constitution, there is the presumption of innocence, and the defendant has the right to a jury trial, the right to a public trial, the right to a fair trial, and the right to confront and cross-examine witnesses. It is in this context that we must consider some of the more drastic reforms.

And so, as was indicated earlier in the very thoughtful testimony of a mother here, two-way closed-circuit television, we have through our research found would be the safest constitutional route to go, where the child can still be separated in a small room, without the jury and the public as spectators, have a support person present, and yet have a TV monitor in that room, where the defendant's image would be projected from the courtroom. The defendant, as well as the jury and the judge, would have a monitor in the courtroom to see the child testifying by television.

This particular procedure has not yet been held unconstitutional, yet procedures that hide the defendant from the child have been held unconstitutional by courts in this country. I believe this will eventually go to the U.S. Supreme Court. Until it does, until this issue has been more tested in our courts, I think it is premature and unwise for us to recommend specific approaches.

On the other hand, States should be trying to experiment with many ideas at this point, and I think that your legislation is there-

fore good for allowing States the flexibility to decide how they want to experiment with some of these procedures.

The last few points I have to make—and my written testimony will discuss some of the many other reforms—is that if I were to leave it as it is, with simply a list of examples that States may adopt, I would suggest that you add a complete and thorough laundry list of all the various reforms that may constitute reducing trauma, and I would be happy to provide you with any information to do that.

The third point I would make is that you may want to consider amending the statute to cover physical abuse as well as sexual abuse cases. I have had an increasing recent concern that there has been so much attention to the problem of sexual abuse that we have forgotten that children are brutally beaten.

In fact, on the sixth page of the Metro section of the Washington Post, a 3-paragraph article described a babysitter who shook to death a 15-month-old who died of cardiac arrest. That same story would have been on the front page had it been a sexual abuse case.

I would feel at this point that, while few cases of physical abuse indeed are prosecuted primarily because you do have an incompetent witness—often, infants are victims of physical abuse, who cannot even speak—those cases, too, where they do involve a criminal prosecution, I think deserve the special protections that your legislation would address.

Finally, I would add that the funding, which is tremendously needed, and I hear it from the field all the time, to provide treatment, which is one area we recommend for the child as well as the offender and family—there is such a great need for resources, I would suggest that the money not just be available to States, but also to research and demonstration programs such as ours, or the major national treatment training institutes—San Jose, CA, Hank Giavretto's program, programs like this, that were pioneers in the field in reducing trauma to children and to providing treatment for families and hopefully, preventing further abuse.

Thank you very much.

Senator HAWKINS. Thank you very much, Jo.

[The prepared statement of Ms. Bulkley follows:]

STATEMENT OF

JOSEPHINE BULKLEY, PROJECT DIRECTOR
CHILD SEXUAL ABUSE LAW REFORM PROJECT
NATIONAL LEGAL RESOURCE CENTER
FOR CHILD ADVOCACY AND PROTECTION

before the

SUBCOMMITTEE ON CHILDREN, FAMILY,
DRUGS AND ALCOHOLISM
LABOR AND HUMAN RESOURCES COMMITTEE

of the

UNITED STATES SENATE

concerning the

CHILDREN'S JUSTICE ACT (S.140)

May 2, 1985

Ms. Chairperson and Members of the Subcommittee:

I would like to express appreciation to Senator Hawkins for the opportunity to present testimony before the Subcommittee on Children, Family, Drugs and Alcoholism of the Senate Committee on Labor and Human Resources. I have been working on legal issues relating to child sexual abuse since 1980, and have researched and published a number of articles and books, provided technical assistance, and lectured throughout the country on this subject. In 1982, I authored a set of Recommendations for Improving Legal Intervention in Child Sexual Abuse Cases, which synthesized the research and findings of a project funded by a grant from the National Center on Child Abuse and Neglect to the American Bar Association's National Legal Resource Center for Child Advocacy and Protection. The Center was established in 1978 under the ABA's Young Lawyers Division and sponsors a number of grant-funded projects on child welfare and legal issues.

In the early 1980's, prior to developing the Recommendations, the NCCAN-funded child sexual abuse project conducted the first survey and analysis of laws and legal issues in child sexual abuse cases, and identified innovative prosecutorial practices and programs throughout the United States. Following publication of Child Sexual Abuse and the Law and Innovations in the Prosecution of Child Sexual Abuse Cases, the National Center on Child Abuse and Neglect provided additional funding to the Resource Center to develop the Recommendations which were intended to provide suggestions for states and local jurisdictions interested in improving legal intervention in child sexual abuse cases. Kee MacFarlane, one of the most important witnesses who will be testifying later before you today, was the project officer at the National Center with whom I worked closely in developing the Recommendations. Further, the Recommendations were reviewed by an outside Expert Review Panel of individuals recognized as experts on child sexual abuse issues. Today, I am directing another NCCAN grant to the Resource Center that is providing technical assistance to four target sites to help implement legal reforms identified in the Recommendations. The grant also sponsored A National Policy Conference on Legal Reforms in Child Sexual Abuse Cases, in which leading experts presented papers examining and critically analyzing recent legal innovations. Two publications are now available from this project.

I would like to state initially that my testimony represents only my views as a private citizen and does not represent either the views or official policy of the American Bar Association. I would also like to make it clear that the ABA does not take any official policy position on the specific issues set forth in S.140. The Association has adopted two very broad policy resolutions encouraging the legal profession to improve the handling of child abuse and molestation cases and it currently is developing a set of guidelines related to

child victims and witnesses in the legal system through the Criminal Justice Section and Young Lawyers Division for possible approval by the ABA House of Delegates sometime in the future.

The Recommendations that I drafted closely parallel the issues which states must address under S.140 in order to be eligible for additional child sexual abuse funding. S.140 is designed to encourage states to have at least one statute or procedure in three areas: reduction of legal system trauma to children, enhancement of successful legal actions, and prevention of further abuse. Problems relating to the handling of child sexual abuses by the criminal and juvenile justice systems did not become apparent until the late 1970's. It was not until the mid-1970's that child welfare professionals began to see a dramatic rise in reports of sexual abuse. Indeed the general lack of awareness of the extent of the problem is illustrated by the fact that the 1974 federal Child Abuse Act and many state reporting laws originally did not include sexual abuse in their definition of child abuse. Between 1976 and 1982, however, American Humane Association statistics showed a tenfold increase in official reports to child protection agencies. Since 1982, child sexual abuse reports have continued to go up, with more cases involving offenders in out-of-home care settings and very young or pre-school age victims.

Beginning in the late 1970's, criminal prosecution of child sex offenders became increasingly more frequent. Traditionally, parental abuse of children was handled by child protection agencies and sometimes required juvenile court action to induce families into treatment or, where necessary to prevent danger to the child, remove the child from the home. The goals of the juvenile court system often make it possible for children to be spared the necessity of testifying in court, coupled with a lower standard of proof, non-penal sanctions, and efforts to provide services and treatment and to preserve the family.

However, many regard criminal prosecution as necessary, often in addition to a juvenile court action, when a child has been sexually abused. Although numerous justifications are given for the desirability of criminal prosecution, even in cases involving a parent offender, the recent increase in prosecutions seems to be a result of widespread media attention and greater public awareness of the problem and therefore greater pressure on prosecutors' offices to file charges. Criminal prosecution, however, creates many problems. Indeed, many have advocated that the juvenile court is a better forum for dealing with parental abuse of children because its primary interest is to help the child and family rather than punish the offender. More importantly, however, child abuse cases traditionally have not been criminally prosecuted because these cases are difficult to prove in a criminal proceeding. Not only are persons accused of crimes required to be proven guilty

beyond a reasonable doubt, a high standard of proof to meet, but they also are protected by many safeguards under the U.S. Constitution, such as the right to a jury trial, right to counsel, right to confrontation (including cross-examination), right to a public trial, and right to a fair trial.

In child sexual abuse cases, proof to convict a person of sexual abuse is especially difficult to obtain. First there is the victim -- often a young child with verbal and cognitive limitations, who often is perceived as lacking credibility, is considered unable to distinguish fact from fantasy, is thought to be more likely to fantasize or fabricate sexual experiences with adults, and is believed to be unable to observe, remember and communicate what happened to him or her, and may be suggestible to adult influences. Yet, recent research suggests that children's abilities are far greater than was once believed. Dr. Gary Melton testified before the Senate Juvenile Justice Subcommittee that children as young as four years old have the potential to give testimony that is as reliable as adults' testimony. Indeed, courts have been known to qualify witnesses as young as 3-1/2 years old. Research shows that a child's memory is not worse than an adult's and may be better under some circumstances. Research also shows that there is little correlation between age and honesty. Finally, many professionals who have worked with child victim/witnesses in the legal system have directly observed numerous children who have accurately recalled experiences and testified effectively in court. Indeed, following recommendations of leading legal commentators and the Federal Rules of Evidence, 22 states have abolished required hearings to determine whether a child is competent to testify. Nevertheless, many states still require a determination of competency before a child may testify when the child is under ten or fourteen years of age.

Additionally, child sexual abuse cases frequently lack direct eyewitness evidence, as well as medical or physical evidence of the abuse. Thus, the only evidence may be the testimony of a young child. However, until recently, even a competent child victim's testimony was not enough to convict, and a number of states required evidence in addition to a child's testimony in a child sex offense case -- a legal requirement that has never existed for any other crime except rape. This requirement also was based upon now discredited assumptions that sex offense complainants often make false charges. Today, all states have abolished a corroboration requirement for most sexual offenses against children.

Corroborative evidence nevertheless is very helpful in obtaining a conviction. A child's out-of-court statement of abuse may serve to corroborate the child's testimony or may be admissible even if the child does not testify. The ABA Resource Center <u>Recommendations</u> suggest that states should consider a special hearsay exception for out-of-court statements of abuse if the child testifies or is found to be unavailable, the statement has guarantees of trustworthiness,

and there is other corroborative evidence of the act. Hearsay statements of abuse often do not fit within existing exceptions to the hearsay rule, and many courts have strained to apply the spontaneous declarations exception, even though the child's initial complaint might be made several days after the sexual incident. In 1982 when the Recommendations were published, only two states had adopted a special exception; in 1985, at least 12 states have adopted special exceptions by statute or court rule.

There are not only difficulties in proving cases of child sexual abuse. The literature is replete with documentation by mental health and child welfare professionals, victim advocates and others involved with child sexual abuse victims that children may suffer additional psychological harm by insensitive legal procedures, including lack of coordination among professionals, repeated interviews with many different professionals, insensitive questioning and medical exams of children, delays, testimony at grand jury, preliminary hearing and trial, and cross-examination. It has been further shown in Seattle, Washington, for example, that by treating victims more sensitively, the child is less likely to retract and the child becomes a better witness, often leading to more guilty pleas or convictions.

Finally, in many cases of child sexual abuse, the offender is a family member (such as a father, step-father or older sibling), and complex family dynamics suggest the need for a range of available dispositions, with alternatives providing treatment for the offender, where appropriate, as well as treatment for the entire family.

The Resource Center Recommendations include a wide range of suggestions for modifying state laws and procedures to make the legal system more sensitive to children, to encourage effective handling and successful outcomes in child sexual abuse cases, and to provide treatment for families, including offenders where appropriate. A comprehensive approach that addresses the investigation, trial and disposition of cases is necessary, especially since very few reported cases of child sexual abuse actually go to trial. Examples of making the legal process more sensitive to children include: (1) coordination of juvenile and criminal court proceedings; (2) provision of a special advocate for the child in all court actions; (3) preventing repeated interviews with children; (4) establishing special sexual abuse prosecution units and assigning the same prosecutor to all stages of the case; (5) developing methods to avoid a child's testimony at grand jury or preliminary hearings and at trial where necessary to prevent trauma without violating the defendant's constitutional rights (such as videotaping and closed circuit television a child's testimony,

or closing the courtroom); and (6) requiring training of all professionals on legal, child development, and sexual abuse issues.

Methods for improving successful legal outcomes and preventing further abuse include: (1) evidentiary reforms, including hearsay exceptions for a child's out-of-court statement of abuse, elimination of competency tests for child witnesses, and abolition of the marital privilege; (2) statutory authority for issuance of protective orders (e.g., to order the offender out of the home) in any judicial proceeding; (3) reform of laws relating to judicial proceedings involving the non-abusive parent; and (4) special procedures and treatment dispositions for juvenile offenders. Finally, statutory authority for alternatives to traditional prosecution and sentencing should be provided to allow for treatment dispositions.

Despite a number of congressional hearings on the issue of child sexual abuse over the past year, S.140 represents the first comprehensive federal effort to recognize the problems in the legal system's handling of child sexual abuse cases and the special needs of child victims who must be witnesses. Moreover, it recognizes the serious need for additional funding to enable states to improve their efforts to help sexually abused children and their families. However, a number of problems in the proposed legislation should be addressed before the legislation is enacted into law. A major state and local law reform effort has taken place since the early 1980's as a result of the large number of cases entering the criminal system and children who must be witnesses in court, intense media focus on the issue, and wide circulation of the Resource Center Recommendations. Although many reforms still have not been adopted, it is likely that most states will have at least one statute or administrative procedure in each of the three broad areas specified in the bill. Moreover, the current federal act already mandates that states provide for cooperation among law enforcement, courts, and human services agencies, and for appointment of a guardian ad litem for the child. As a result, this legislative proposal simply may provide additional funds for sexual abuse programs without states having to make any new changes. For example, many states require interdisciplinary teams, if not by legislation, in their child protection agency administrative regulations. As noted above, all states have abolished a corroboration requirement for most serious sexual offenses against children. Nevertheless, this law will compel all states to have a minimum level of procedures to improve legal intervention in child sexual abuse cases.

An alternative approach to S.140 would be for the legislation to require states to enact laws in specific areas, such as competency, a special hearsay exception, or reducing delays and interviews. This approach would ensure that states have developed procedures to reform laws that are likely to have the greatest impact on improving prosecution and conviction rates, or reducing trauma by the legal process. Further, there is growing consensus that certain reforms are unilaterally beneficial, with only minor potential negative effects. Many innovations for reducing trauma, such as reducing interviews with children, establishing interdisciplinary teams, providing a victim advocate and other similar approaches, generally are not controversial and do not involve drastic departures from current legal practices or do not jeopardize fundamental constitutional rights. Impressionistic data from jurisdictions that have adopted reforms such as special hearsay exceptions and abolition of competency tests indicates that more cases are being prosecuted. Further, in jurisdictions such as Seattle, Washington where many reforms have been utilized for almost 10 years, it has been found that most children can give reliable and effective testimony in court without being severely traumatized. As Lucy Berliner from the Sexual Assault Center in Seattle notes: "A criminal justice system which does not accommodate a whole class of victims, especially the most vulnerable, helpless and deserving of protection, is hardly fulfilling its function in society. It is intolerable that the opportunity for justice be so unevenly dependent on where the child is victimized. There should be immediate extension of the basic procedural changes to all jurisdictions. Outdated misconceptions about children's competence should no longer influence decision making. Adequate resources must be available to properly staff the systems."

Still, courts as well as the defense bar understandably are skeptical about many reforms because of concern in protecting long-established values in our constitutional system (including the presumption of innocence, the right to a fair trial, and many other constitutional rights). Thus, A National Policy Conference on Legal Reforms in Child Sexual Abuse Cases recently sponsored by the Center analyzed the benefits as well as disadvantages and problems with recent reform proposals. For example, videotaping or closed circuit television of a child's testimony as well as videotaping interviews with children raise serious constitutional, legal and practical problems. Indeed, those of us who advocate for reform must be circumspect in recommending approaches not yet sufficiently tested in the courts or in practical experience. Moreover, studies of the effects of the legal process on children are necessary to identify what factors make certain children most vulnerable or to identify which legal procedures cause the

52-231 O—85——3

greatest trauma. Further research on children's abilities and understanding of the legal system also should be done. Further, as victim advocates have found, special procedures for avoiding a child's testimony at trial, such as videotaping, may not be necessary if sensitive procedures have been instituted at the investigative stage. For these reasons, it may be premature to impose specific requirements on states at this time. Whether or not specific requirements are imposed, the legislation should include a "laundry list" of possible reform efforts. The legislation currently gives sound examples, but it should be expanded to provide a comprehensive package of possible innovative procedures and approaches. This project would be pleased to provide additional assistance to the Subcommittee in redrafting parts of the bill to ensure all possible options are included and to ensure accuracy in the description of reforms.

Another concern is that these procedures are intended to assist only victims of sexual abuse. When physical abuse victims must go through the criminal justice system, they too may suffer additional harm. As noted earlier, physical abuse cases also are difficult to prove in a criminal proceeding. Finally, the bill only provides money for state grants. It might be better for additional funding to be made available both to states and to discretionary research and demonstration projects. Many of the most successful sexual abuse programs funded by the federal Child Abuse Act since the late 1970's were part of the National Center on Child Abuse and Neglect's demonstration grant program.

Senator HAWKINS. Debra.

Ms. WHITCOMB. Thank you, Senator Hawkins.

My name is Debra Whitcomb, and I am with Abt Associates, a research and consulting firm in Cambridge, MA.

I would like to speak today about the findings of a study that we have done for the National Institute of Justice in which we examined the actual implementation of some of the statutory reforms that have been adopted by a number of States.

I wanted to mention that in my written statement that I have submitted, I have attached a chart that lays out specific provisions of many of these statutory reforms, State by State, and——

Senator HAWKINS. Do you have it city by city, or State by State?

Ms. WHITCOMB [continuing]. State by State—that will give some guidance as to what was out there as of the end of December 1984—and I am aware that a number of States have adopted some of these reforms since then, and we have not been able to keep abreast with those under our contract.

Our findings from our study are based largely on personal interviews conducted with judges, prosecutors, victim advocates, protective services workers and law enforcement officers in four jurisdictions that were selected on the basis of extensive telephone interviews and input from a six-member advisory panel, to our research.

The four jurisdictions that were selected were Des Moines, IA; Milwaukee, WI; Orlando, FL; and Ventura, CA. Each of those jurisdictions possesses an innovative array of statutes and procedures, which enabled us to examine a broad range of alternative techniques.

What I would like to do now is go over some of the statutory reforms that we were looking at, and then I will go into the findings of our study in terms of their implementation.

First, as Josephine mentioned, there has been a trend away from competency criteria, particularly the common law rule establishing a presumption of competency only for children over the age of 14. Now, at least 20 States have adopted the Federal rule of evidence that says every person is competent. Thirteen States presume that anyone is competent if he or she understands the oath, or the duty to tell the truth, regardless of age. The remaining States either specify an age above which the witness is presumed to be competent—and 10 and 14 are the most common ages—or they require any child to demonstrate an understanding of the nature and obligation of the oath, or the duty of the witness to tell the truth.

In addition, there are three States that have adopted a special exception specifically for child sexual abuse victims, but their overall competency provisions remain the same, and in those States, it is the 10-year standard.

With regard to the special exceptions to hearsay that Josephine mentioned, there are at least nine States that have adopted the statutory exceptions explicitly for child sexual abuse victims. At least 20 States have passed laws barring some portion of the audience from the courtroom during the testimony of a sexual abuse victim. Many of those laws are not limited to children; may apply to any case involving obscene or vulgar language. Some of those statutes are quite old.

At least 14 States have adopted laws authorizing the introduction of videotaped testimony taken at a deposition or preliminary hearing. At least four States statutorily authorize judges to allow physically or sexually abused children to testify over closed-circuit television to the court and jury. Three States have laws permitting the introduction into evidence of a videotape taken of the child's first statement, provided that the child was questioned by a nonattorney, and both the interviewer and child are available for cross-examination at trial.

Our extensive interviews with prosecutors, victim—advocates and judges across the country suggest that by-and-large, many of the techniques authorized in these laws are only rarely used. Not only are there many unresolved questions about their ability to withstand judicial scrutiny, but there are also a number of practical concerns that tend to dissuade prosecutors from taking full advantage of the new avenues that are open to them.

Perhaps the most radical of the proposed reform measures is the use of closed-circuit television to broadcast the child's live testimony from another room. This technique is now statutorily available in at least four States. In at least one State, the Supreme Court has permitted its use in a child sexual abuse case, even in the absence of statutory authority. Whether this technique satisfies the defendant's constitutional right of confrontation has not yet been resolved. But prosecutors and judges question the value of closed-circuit television from yet another standpoint: What effect does the television medium have on jurors' perceptions, or for that matter, on the victim's reaction?

Although there is some empirical evidence to suggest that televised trial materials have no markedly negative effect on courtroom communication between trial participants and jurors, the findings are far from conclusive.

The primary purpose of closed-circuit television is to avoid the direct confrontation between the child and the defendant, but there are other less dramatic ways to shield child victims from direct eye contact with the defendants. Some prosecutors use their own bodies to block the victim's view of the defendant during the direct examination. Others simply instruct children to look elsewhere while they testify, or to look for a supportive family member or victim-advocate in the courtroom audience. One victim-advocate encourages children to tell the judge if the defendant is "making faces". Such instructions may not completely eradicate the child's fear of seeing the defendant in court, but at least they impart a small sense of control in an otherwise overpowering situation.

Videotaped testimony is another technique that is often hailed, yet seldom used. The prosecutors we interviewed noted particularly that the physical milieu of depositions can be more traumatic than that of a trial. Depositions take place in small rooms, thereby bringing the child and defendant into much closer physical proximity. The judge may not be there to monitor the behavior of the defendant or his counsel, and victim-advocates may not be permitted to attend. If the statute requires a finding of emotional trauma or unavailability before this technique can be used, the child may be subjected to a battery of medical and/or psychiatric tests by examiners for the State and the defense.

Prosecutors also believe that a child who successfully endures all the proceedings leading up to the deposition or preliminary hearing can succeed at trial as well.

The purpose of these videotape statutes is to spare the child the presumed trauma of a public appearance in court. Yet many of our interview respondents observed that the courtroom audience is not a major concern for most children. They also noted that there rarely is a general audience. When spectators are present, we were told, they can often be persuaded to leave voluntarily by a simple request of the prosecutor. Existing closure statutes—another popular remedial technique—are seldom invoked.

The videotape statutes in Texas, Louisiana, and Kentucky which permit introduction of an extra judicial videotape statement, are more promising. Their principal goal is to reduce the number of interviews the child must give, but they give rise to other benefits as well. Videotaping a child's first statement captures the child's most candid reaction to the incident. It also reportedly encourages guilty pleas. Enforcement officers in many jurisdictions are already using videotape to achieve these goals, even in the absence of laws authorizing their introduction into evidence at trial.

The principal drawback of these videotape statutes is their failure to protect child victims from the presumed trauma of testifying at trial and confronting the defendant, since the children must be available for cross-examination.

Also, as we have heard already, unless the videotapes are placed under a protective order, they may become public property.

Also, the tapes may become a liability if the child volunteers contradictory information. For example, we viewed a videotape of a 3-year-old who wavered on the question of whether she had a dog. A defense attorney could exploit the child's uncertainty on this simple matter to discredit her entire statement.

It is also very critical on those videotapes to make sure that the interviewer is thoroughly trained in techniques of eliciting information from children without overdoing leading questions or encouraging the child.

We found, in fact, that the most useful and effective techniques do not involve advanced technology. The statutes creating special exceptions to hearsay for the out-of-court statements of child sexual abuse victims fall into this category. Like the laws admitting an extra judicial videotaped statement into evidence, these hearsay statutes also provide a means of introducing a child's prior statement. The advantage of these laws over the videotape laws is the ability to introduce the hearsay statement under certain conditions, even when the child is unavailable as a witness.

Prosecutors in States that have adopted special hearsay exceptions report using them frequently and successfully.

Many of the most effective innovations do not require statutory reform at all. These include, for example, enhancing the child's communication skills through the use of dolls, artwork, and simplified vocabulary; modifying the physical environment, for example, by providing a smaller chair for the child, having the judge sit at the same level, or wear business clothes instead of a robe, and preparing child victims for a courtroom appearance by briefing them on the roles of people in the courtroom, introducing them to the

judge, taking them for a tour of the courtroom, allowing them to sit in the witness chair and speak into the microphone.

By demystifying the courtroom, these techniques help to alleviate children's fear of the unknown, thereby enhancing the accuracy and efficiency of their recall abilities.

It is also important to recall that trial is only the culmination of a long series of stressful events that the child endures as the case is adjudicated. Most of the legislative reforms address only the trial experience, and hence they benefit only those children whose cases go to trial. A few States have also adopted laws intended to ease the child's anxiety throughout the criminal justice process. Such legislation includes laws permitting child witnesses to have a supportive person present during court proceedings, and offering the services of the court to explain the proceedings to the child, to assist the family and child, and advise the court and the prosecutor. There are also laws directing law enforcement, social service agencies, and prosecutors to conduct joint investigations in child sexual abuse cases, using a single trained interviewer.

Another category is laws attempting to expedite the adjudication process by giving precedence in trial scheduling to cases where the victim is a minor or to sexual offense cases.

These laws offer an important endorsement of the legislature's concern for child victims, but for maximum effect, may require the personal commitment of the individuals handling these cases. Indeed, dedicated persons in many jurisdictions have introduced these innovations successfully, even without enabling legislation. Moreover, these precautions can and should be provided to every child coming into the system, not only those whose cases actually come to trial or whose emotional well-being is severely threatened by the prospect of testifying.

Of all the statutory reforms we examined, two appeared especially promising—first, those abolishing the competency requirements, thereby providing the child an opportunity to be heard; and second, those authorizing a special hearsay exception for child sexual abuse victims. Our research leads us to conclude that much of the attention now focused on mechanical interventions might be more productively directed toward alternative techniques that are less dramatic, yet equally, or even more, effective.

In other words, creative exploitation of resources that are already available might achieve the same goals without threatening the structural premises of American law.

Thank you.

[The prepared statement of Ms. Whitcomb follows:]

PROSECUTION OF CHILD SEXUAL ABUSE:

INNOVATIONS IN PRACTICE

by

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Testimony before the Subcommittee on
Children, Family, Drugs, and Alcoholism
Committee on Labor and Human Resources
United States Senate

May 2, 1985

PROSECUTION OF CHILD SEXUAL ABUSE: INNOVATIONS IN PRACTICE*

Adults have performed sexual acts with children throughout history. In the modern world, however, such actions are almost universally taboo, especially between parent and child. Even so, in 1982 the National Center on Child Abuse and Neglect (a division of the U.S. Department of Health and Human Services) received 56,607 substantiated reports of children who had been molested by a parent or household member.[1] In addition, a large and growing number of reports of children molested by strangers or acquaintances are filed with law enforcement agencies. Unfortunately, the FBI's Uniform Crime Reports do not tabulate law enforcement reports of sexual assaults by age.

Perhaps even more disturbing than the reported cases of child molestation is the knowledge that an unknown number of similar cases never reach the attention of authorities. Very young children may lack the verbal capacity to report or the knowledge that an incident is inappropriate or criminal. Older children may be embarrassed. Many child victims are threatened into silence. When they do confide in a trusted adult, their reports may be dismissed as fantasy or outright lies. Even if the child's story is believed, parents and child-serving professionals have been reluctant to enlist the aid of enforcement agencies, largely for fear of the adverse effects of the criminal justice process on child victims and their families.

Of course, cases that are filed with police may not result in prosecution, for reasons including inability to establish the crime, insufficient evidence, unwillingness to expose the child to additional trauma, and the belief that child victims are incompetent, unreliable, or not credible as witnesses. Yet limited data from the Bureau of

*The research reported in this testimony was performed under contract to The National Institute of Justice, U.S. Department of Justice, Contract No. J-LEAA-011-81. The full report, entitled When the Victim is a Child: Issues for Judges and Prosecutors, by Debra Whitcomb, Elizabeth R. Shapiro, and Lindsey D. Stellwagen, Esq. is forthcoming.

Justice Statistics reveal that nine of every ten persons arrested for crimes against children (which include kidnapping, sexual assault, other sexual offenses, and family offenses) are prosecuted,[2] and public sentiment increasingly favors criminal justice intervention in these cases.

Child Victims in the Criminal Justice System

Child sexual abuse cases have two unique attributes that pose special problems for prosecution: (1) they involve child witnesses, and (2) they involve unusual interpersonal dynamics. Together, these attributes seriously inhibit, and sometimes even prevent a child from meeting the adult-oriented expectations of the criminal justice system.

Children as Witnesses. By definition, children are immature with regard to their physical, cognitive, and emotional development. This immaturity takes its toll when children are involved in court proceedings. From the point of disclosure, children are interviewed repeatedly by adults representing different agencies with overlapping information needs. Continuances are freely granted, causing delays that erode the children's memories and undermine therapeutic efforts to help them get on with their lives. Children do not understand the reasons for repeated interviews and delays. Many choose to terminate the process by recanting.

An entirely different set of problems arises when children are called to testify in court. Judges loom large and powerful over small children isolated in the witness stand. Attorneys use language children do not understand and argue over everything the children say. Defense attorneys ask questions intended to confuse them, for reasons they cannot comprehend. Many people are watching every move they make--especially the defendant. Under such conditions, children cannot be expected to perform on a par with adults. Again, all too often, they recant or "freeze," refusing to answer further questions.

Dynamics of Child Sexual Abuse. The problems of immaturity are compounded when the child is a victim of sexual abuse. Generally, the child is the only witness, and there often is no physical evidence. Consequently, the case becomes a matter of the child's word against the adult's. This fact is all too obvious to offenders and very simple for their attorneys to exploit.

Incest, in particular, traps the child in an extremely precarious position. Children are taught to obey and respect their elders, and incestuous offenders abuse

their authority to command secrecy with threats that range from withdrawal of love to the death of the child, mother, or other loved ones. Visions of the father in jail, the mother distraught, the family on welfare, and the children placed in foster care typically suffice to prevent a child from divulging the incestuous situation, often for years, sometimes forever. A child who reports promptly is by far the exception, and not the rule.

If the child's situation becomes known and the child protection or law enforcement authorities intervene in the family, the child may be under intense pressure to retract the story. Regardless of whether the father or the child is removed from the home, dissolution of the family appears imminent and the child may shoulder the blame. The pressure to recant further intensifies the longer the case is delayed, reaching its climax when the child faces the defendant from the witness stand.

A Call for Change

If child victims are treated insensitively while their claims to justice are investigated and adjudicated, their participation in that process is likely to suffer, in turn weakening the government's case. To the extent possible, those elements of the process that create undue stress should be minimized, because alleviating the child's trauma can significantly benefit the prosecution.

Victim advocates and prosecutors across the country are experimenting with a variety of measures intended to reduce the stress on child victims who become entangled in the complexities of the child protection and criminal justice systems. Several states have already adopted laws that permit alternative--and some very controversial--techniques. Appended to this statement is a chart analyzing selected provisions of pertinent legislation that had been enacted as of December 1984. The reform measures are listed in two categories: (1) those seeking to alleviate the perceived trauma of giving live, in-court testimony (hearsay exceptions, courtroom closure); and (2) those authorizing mechanical interventions to obtain the child's testimony (videotape and closed-circuit television). The extensive footnotes to the chart should be analyzed alongside it, since they provide important clarifications or elaborations of the chart's contents.

After briefly summarizing the information displayed on the chart, this paper turns to a discussion of the practical concerns surrounding the actual implementation of the proposed reforms. These findings are based largely on personal interviews conducted with judges, prosecutors, victim advocates, protective services workers,

and law enforcement officers in Des Moines, Iowa; Milwaukee, Wisconsin; Orlando, Florida; and Ventura, California. Each jurisdiction possessed a different array of innovative statutes and procedures, thereby enabling us to examine a broad range of alternative techniques. It was beyond the scope and intent of this study to perform an exhaustive review of the legal issues that surround many of these reforms. These issues are hotly debated and extremely complex; they can be resolved only as they reach the appellate courts in the years to come.

Review of Statutes

Competency Provisions. Since 1974, with the enactment of the Federal Rules of Evidence and the subsequent adoption of the Uniform Rules of Evidence in many states, there has been a trend away from competency criteria and, in particular, the common law rule establishing a presumption of competency only for children over the age of 14 years. A review of each state's competency provisions revealed that:

- Twenty states dictate that every person is competent, the standard found in Federal Rule 601.
- Thirteen states presume that anyone is competent if he or she understands the oath or the duty to tell the truth, regardless of age.
- In 13 states, a child above the age of 10 is presumed competent. In two of these states, a child under 12 must show an understanding of the oath.
- Five states stipulate that a child is competent to testify if he or she understands the nature and obligation of the oath, or, in some states, understands the duty of the witness to tell the truth.
- Case law in five states suggests they most likely use the common law standard, which holds that a child above the age of 14 is presumed competent.

In addition, three of the states that normally apply the "10-year" standard (Colorado, Missouri, and Utah) have recognized the need for a child's testimony in sexual abuse cases by adopting an exception for these cases, but without liberalizing their overall competency provisions.

Special Exceptions to Hearsay. To date, nine states have statutorily created a special hearsay exception explicitly limited to child sexual abuse victims. Typically, these laws provide that a child's out-of-court statement is admissible if the court finds sufficient indicia of reliability and the child either testifies or is found unavailable as

a witness. One state (Illinois) does not permit the out-of-court statement if the child does not testify; seven states require corroboration if the child does not testify; one state (Kansas) stipulates that corroboration is not required. Five statutes require the government to give notice of its intent to introduce an out-of-court statement.

Exclusion of Spectators. At least 20 states have passed laws barring some portion of the audience from the courtroom during the testimony of a sexual abuse victim. Some statutes are very generally worded to exclude everyone except persons necessary to the conduct of the trial; others specify exceptions that may include such persons as the child's parents, guardian ad litem or attorney, or other supportive individual. Four states permit representatives of the media to remain in the courtroom; four other states provide for public access by making available a transcript of the private testimony.

Videotaped Testimony. Thirteen states have adopted laws authorizing the introduction of videotaped testimony taken at a deposition or preliminary hearing. Three states explicitly prohibit the government from calling the child to testify at trial if the videotape is introduced; two states reserve this right for the government. Eleven states require the defendant to be present during the videotaping, although two of those states (Kentucky and Texas) specify that the child must not be able to hear or see the defendant. (One Kentucky trial court has held that since the child cannot see the defendant, the law impermissibly violates the defendant's right of "face-to-face" confrontation as contained in the Kentucky constitution.[3] This trial court decision is currently on appeal.) Six states stipulate that the defendant be provided a full opportunity to cross-examine the child; two more states require the child's testimony to be taken under the Rules of Evidence. Eight states require a showing that testifying will be traumatic or that the witness is medically or otherwise unavailable; only Arkansas merely provides that good cause must be shown.

Closed Circuit Television. To date, three states (Texas, Kentucky, and Louisiana) statutorily authorize judges to allow physically or sexually abused children to testify via closed circuit television to the court and jury. Only the judge, attorneys, and a support person can be present with the child. The defendant and equipment operators can be present, but the child cannot see or hear them. (As noted above, the constitutionality of the Kentucky provision is currently on appeal.)

Videotaped Statements. These same three states--Texas, Louisiana, and Kentucky--have also adopted laws permitting the introduction into evidence of a videotape taken of the child's first statement, provided that the child was questioned

by a non-attorney and both the interviewer and child are available for cross-examination.

Extensive interviews with prosecutors, victim advocates, and judges across the country suggest that, by and large, the techniques authorized in these laws are only rarely used. Not only are there many unresolved questions about their ability to withstand judicial scrutiny (which we will not address here), but there are also a number of practical concerns that tend to dissuade prosecutors from taking full advantage of the new avenues that are open to them. These are discussed below.

Practical Concerns with the New Techniques

The plight of child victims in the courtroom has generated considerable media attention, much of it focused on the potential of modern technology to alleviate the stress of testifying. Videotape and closed circuit television, in particular, have received much media play, and legislators have been pressured to adopt these controversial measures with limited opportunity for reflection and study. Our findings suggest that these techniques have only limited value, and that there are less obtrusive, and less controversial, ways of achieving similar effects in all but the most disturbing cases.

Perhaps the most radical of the proposed reform measures is the use of closed circuit television to broadcast the child's live testimony from another room adjacent to the trial courtroom. At this writing, this technique is statutorily available in only three states (and the New Jersey Supreme Court has permitted its use in a recent child sexual abuse case).[4] Whether this technique satisfies the defendant's constitutional right of confrontation has not yet been resolved. But prosecutors and judges question the value of closed circuit television from yet another standpoint: What effect does the new medium have on jurors' perceptions? Although there is some empirical evidence to suggest that televised trial materials have no markedly negative effect on courtroom communication between trial participants and jurors,[5] these findings are far from conclusive.

The primary purpose of closed circuit television is to avoid direct confrontation between the child and the defendant. But there are other, less dramatic ways to shield child victims from direct eye contact with defendants. Some prosecutors use their own bodies to block the victim's view of the defendant during the direct examinations. Others simply instruct children to look elsewhere while they testify, or to look for a supportive family member or victim advocate in the courtroom audience.

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The purpose of these videotape statutes is to spare the child the presumed trauma of a public appearance in court. Yet many of our interview respondents observed that the courtroom audience is <u>not</u> a major concern for most children. They also noted that there rarely is a general audience; when spectators are present, we were told, they can often be persuaded to leave voluntarily by simple request of the prosecutor. Existing closure statutes--another popular remedial technique--are seldom invoked.

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The principal drawback of these videotape statutes is their failure to protect child victims from the presumed trauma of testifying at trial and confronting the defendant, since the children must be available for cross-examination. Unless the videotapes are placed under a protective order, they may become public property,

perhaps even appearing on media broadcasts, causing incalculable trauma for the child and family. Also, the tapes may become a liability if the child volunteers contradictory information. For example, we viewed a videotape of a three-year-old who wavered on the question of whether she had a dog. A defense attorney could exploit the child's uncertainty on this simple matter to discredit the entire statement.

We found, in fact, that the most useful and effective techniques do not involve advanced technology. Statutes creating special exceptions to hearsay for the out-of-court statements of child sexual abuse victims fall into this category. Like the laws admitting an extrajudicial videotaped statement into evidence, these hearsay statutes also provide a means of introducing a child's prior statement. The advantage of these laws over the videotape laws is the ability to introduce the hearsay statement, under certain conditions, even when the child is unavailable as a witness. Prosecutors in states that have adopted special hearsay exceptions report using them frequently and successfully.

Many of the most effective innovations do not require statutory reform at all. These include, for example:

- enhancing the child's communication skills through dolls, artwork, and simplified vocabulary;
- modifying the physical environment, e.g., by providing a smaller chair for the child, having the judge sit at the same level or wear business clothes instead of the robe; and
- preparing child victims for a courtroom appearance, e.g., by briefing them on the roles of people in the courtroom, introducing them to the judge, taking them for a tour of the courtroom, allowing them to sit in the witness chair and speak into the microphone.

By "demystifying" the courtroom, these techniques help to alleviate children's fear of the unknown, thereby enhancing the accuracy and efficiency of their recall abilities.[7]

It is also important to recall that trial is only the culmination of a long series of stressful events that the child endures as the case is adjudicated. Most of the legislative reforms address only the trial experience, and hence they benefit only those children whose cases go to trial. A few states have also adopted laws intended to ease the child's anxiety throughout the criminal justice process. Such legislation includes:

- Laws permitting child witnesses to have a supportive person present during court proceedings, and offering the services of

the court to explain the proceedings to the child, assist the family and child, and advise the court and prosecutor.

- Laws directing law enforcement, social service agencies, and prosecutors to conduct joint investigations in child sexual abuse cases, using a single trained interviewer.

- Laws attempting to expedite the adjudication process by giving precedence in trial scheduling to cases where the victim is a minor or to sexual offense cases.

These laws offer an important endorsement of the legislature's concern for child victims, but for maximum effect, they require the personal commitment of the individuals handling these cases. Indeed, dedicated persons in many jurisdictions have introduced these "innovations" successfully even without enabling legislation. Moreover, these precautions can and should be provided to every child coming into the system, not only those whose cases actually come to trial or whose emotional well-being is severely threatened by the prospect of testifying.

Conclusions and Recommendations

Of all the statutory reforms we examined, two appeared especially promising: (1) those abolishing competency requirements, thereby providing the child an opportunity to be heard; and (2) those authorizing a special hearsay exception for child sexual abuse victims. Our research leads us to conclude that much of the attention now focused on mechanical interventions might be more productively directed toward alternative techniques that are less dramatic, yet equally--or even more--effective. In other words, creative exploitation of resources that are already available might achieve the same goals without threatening the structural premises of American law.

Prosecutors, then, must learn to maximize the avenues available to them. Each prosecutor's office should designate at least one attorney to receive training or specialize in child sexual abuse cases. Training should be provided, not only in general concepts of child development and family dynamics, but also in the specifics of state law and case precedent. Above all, prosecutors should work to improve communication and coordination among the several agencies responsible for children's welfare. Only through a concentrated team effort can we hope to develop a rational, cohesive approach to the adjudication of crimes against children.

Judges, especially, must be aware of children's unique situation in the criminal court setting. Some of the persons we interviewed objected to any intervention on behalf of a witness in the courtroom, on grounds that it prejudices the jury to believe

the allegation of victimization. We contend, however, that certain departures are necessary for child witnesses simply because they are children. At a minimum, judges must be alert to lines or forms of questioning that confuse or intimidate the child. They must recognize signs of discomfort or embarrassment that may cloud or distort the child's testimony, and then take the initiative, for example, to call a recess in order to identify and remedy the source of the child's distress. Where possible, and where the prosecutor fails to file a motion, judges should order alternative procedures sua sponte. They should avoid granting continuances unless absolutely necessary, and they should ensure that every child has a supportive friend or advocate in court.

In sum, there are many ways to relieve the child victim's trauma and elicit effective testimony. Drastic interventions--like closed circuit television and videotaped depositions in lieu of live testimony--should only be necessary in extraordinary cases. Rather, sensitive treatment of the child throughout the pretrial period, along with creative interpretations of available statutes and case law precedent to ameliorate the trauma of testifying, may be no less effective than the proposed uses of electronic technology in most cases. These measures must not be overlooked in our desire to move the courts into the age of technology.

FOOTNOTES

1. U.S. Department of Health and Human Services, National Center on Child Abuse and Neglect, National Study on Child Neglect and Abuse Reporting (Denver: American Humane Association, 1983).

2. U.S. Department of Justice, Bureau of Justice Statistics, Tracking Offenders: The Child Victim, Bulletin, December 1984.

3. Commonwealth v. Willis, No. 84-CR-346 (Fayette Circuit 1985).

4. New Jersey v. Sheppard, Docket #I 0822-12-83 (Committee on Opinions, September 27, 1984).

5. Gerald R. Miller, "The Effects of Videotaped Trial Materials on Juror Responses," in Psychology and the Law, ed. Gordon Bermant, Charles Nemeth, and Neil Vidmar (Lexington, MA: Lexington Books, 1976), p. 205.

6. This effect was reported to us in telephone interviews with prosecutors across the country. See also, Reinhardt Krause, "Videotape, CCTV Help Child Abuse Victims Tell Their Story but Legal Problems Remain," Law Enforcement Technology (November 1984): 16-18.

7. Helen E. Dent and Geoffrey M. Stephenson, "An Experimental Study of the Effectiveness of Different Techniques of Questioning Child Witnesses," British Journal of Social and Clinical Psychology (1979): 41, citing W. Stern, "The Psychology of Testimony", Journal of Abnormal and Social Psychology, Vol. 34 (1939): 3-20; E. Lord, "Experimentally Induced Variations in Rorschach Performance," Psychological Monograph, Vol. 64 (1950): 10; and C. Zimmerman and R.A. Bauer, "Effect of an Audience on What is Remembered," Public Opinion Quarterly, Vol. 20 (1956): 238-248.

STATUTORY PROVISIONS RELEVANT TO CHILD WITNESSES IN SEXUAL ABUSE CASES*

	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	MS	MO
LIVE TESTIMONY																										
COMPETENCY[1]																										
• child < 14, court to determine																										
• child < 10, court to determine			S			S,3								S		S			S,4					S	S,5	S,1
• child witness competent if understands oath	S,2	R							C			S	S													
• competent if understands oath					R		C							C		S,R	S	S		R		S				
• every person is competent			R	S		R		R		S											S		R		S	
ABUSED CHILD HEARSAY EXCEPTION[6]																										
• child's age			<10			<15								<13	<10		M							<10		
• court finds reliable																	•							•		
• child testifies			•			•								•	•									•		
• child unavailable, statement corroborated			•			•									•		7							•		
• notice of intent to introduce			•			•									•									•		
EXCLUSION OF SPECTATORS[8] **FROM COURTROOM**																										
• victim/witness age	any	≤16	any		any					<16	any			<13					≤15			<18	any	<18	any	
• during testimony only		•			•					•				•					•					•		
• public transcript provided		•	•		•																					
• media exception			•							•				•					11							
• family/guardian/moral support exceptions		•				•				•									•							
MECHANICAL TESTIMONY																										
VIDEOTAPED TESTIMONY ADMISSIBLE[12]																										
• child's age		≤16	<15	<17	≤15	<15				<16									≤12		<14					
• defendant's presence specified			•	•	•		•			•									13		•					
• opportunity for cross-examination specified			•		•	14															•					
• court must make findings (footnote)					15	16	17			18											19					
• court findings include unavailability						•	•																			
• government may still call child to testify				•															20							
• other (footnote)		24			25																26					
CLOSED CIRCUIT TESTIMONY[30] **AVAILABLE**																										
• child's age																			≤12	≤14						
• defendant present, but child cannot hear or see																			•	•						
• attorneys present																			•	•						
ABUSED CHILD VIDEOTAPE/FILM[31] **HEARSAY EXCEPTION**																										
• child's age																			≤12	≤14						
• no attorneys present at taping																			•	•						
• interviewer and child available to testify																			•	•						

SOURCE: Statutes were provided by state governments in the fall of 1984. The chart was prepared by Lindsey Stallworth, Esq., of Abt Associates staff.

*See section header footnotes for a brief description of related laws not included on the chart.

Key: S = Statute (includes codified rules)
R = Rule of Evidence (not codified)
C = Case law only
M = Minor; child

STATUTORY PROVISIONS RELEVANT TO CHILD WITNESSES IN CRIMINAL ABUSE CASES*

	AT	AL	AK	AR	CA	CO	CT	DE	FL	GA	HI	ID	IL	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	MS	MO	MT	NE	NV	NH	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
LIVE TESTIMONY																																																			
COMPETENCY[1]																																																			
• child < 14, court to determine					C,I																			C,I	C,I																											
• child < 10, court to determine									S,I					S,I																																	S,I						S
• child witness competent if understands oath																																																S					
• competent if understands oath	S				S				S																			S																						S				
• every person is competent			S	S		S	S			S			S	S	S					S												S																		S		S	S
ABUSED CHILD HEARSAY EXCEPTION[2]																																																			
• child's age																				(10)				N				(10)																								
• court finds reliable																				o				o				o																								
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• child unavailable, but statement corroborated																				o				o				o																								
• notice of intent to introduce																												o																								
EXCLUSION OF SPECTATORS[3] **FROM COURTROOM**																																																			
• victim/witness age	any			(16)			any	any	any											N				any								any																			
• during testimony only				(3)				•												•																															
• public transcript provided				•																																														
• media exceptions																				•																															
• family guardian/moral support exceptions																																																		o
MECHANICAL TESTIMONY																																																		
VIDEOTAPED TESTIMONY ADMISSIBLE[10]																																																		
• child's age							(13)	(12)												(15)				(12)																											(10)	
• defendant's presence specified	•						•																	(3)																										•	
• opportunity for cross-examination specified	(4)						•													•																														•	
• court must make findings (footnote)							20	21												22																														23	
• court findings include unavailability																				•																															
• government may still call child to testify							NO																	NO																										•	
• other (footnote)	17						28	29												25																															
CLOSED CIRCUIT TESTIMONY[10] **AVAILABLE**																																																		
• child's age																								(12)																											
• defendant present, but child cannot hear or see																								•																											
• attorneys present																								•																											
ABUSED CHILD VIDEOTAPE/FILM[11] **HEARSAY EXCEPTION**																																																		
• child's age																								(12)																											
• no attorneys present at taping																								•																											
• interviewer and child available to testify																								•																											

SOURCE: Statutes were provided by state governments in the fall of 1984.

*See section header footnotes for a brief description of related laws not included on the chart.

Key: S = Statute (includes codified rules)
R = Rule of Evidence (not codified)
C = Case law only
N = Minor; child

FOOTNOTES
TO CHART

1 Ala. Code §12-21-165;
Ariz. Rev. Stat. Ann. § 12-2202 (controlling);
Ark. Stat. Ann. § 28-1001;
Cal. R. Evid. R. 701;
Colo. Rev. Stat. § 13-90-106(1)(b)(controlling);
Fla. Stat. § 90.601;
Ga. Code §§ 38-1607,1610;
Hawaii Rev. Stat. § 621-16;
Idaho Code § 9-202;
Ind. Code § 34-1-14-5 (applied to criminal matters via § 35-37-4-1; § 35-1-31-3);
Iowa Code § 622.1;
Kan. Stat. Ann. § 60-417;
Ky. Rev. Stat. § 421.200;
La. Rev. Stat. 15:469;
Md. Cts. & Jud. Proc. Code Ann. § 9-101;
Mass. Gen. Laws. c.233 § 20;
Mich. Stat. Ann. § 27A.2163;
Minn. Stat. § 595.02(1)(f);
Miss. Code Ann. § 13-1-3;
Mo. Rev. Stat. § 491.060(2);
Neb. Rev. Stat. § 27-601;
Nev. Rev. Stat. § 50.015;
N.J. Rev. Stat. § 2A:81-1 and R. Evid. R. 17;
N.Y. Crim. Proc. Law §§ 60.20 (Consol.);
Ohio Rev. Code Ann. § 2317.01;
Okla. Stat. tit. 12,§ 2601;
Or. Rev. Stat. § 40.310;
Pa. Stat. Ann tit. 42,§ 5911 (Purdon);
S.D. Codified Laws Ann. § 19-14-1;
Tenn. Code Ann. § 24-1-101;
Utah Code Ann. §§ 78-24-2, 76-5-410;
Wash. Rev. Code § 5.60.050;
Wis. Stat. § 906.01;
Wyo. Stat. § 1-138.

Some of the above are codified versions of R.EVID.R.601. In addition, R.EVID.R.601 is found separately for the following states: Alabama, Alaska, Arizona, Colorado, Delaware, Iowa, Maine, Michigan, Montana, New Mexico, North Carolina, North Dakota, Ohio, Texas, Vermont, Washington, Wyoming.

2 State most likely uses "14-year old" common law standard.

3 Exception: A child victim of a sexual offense is a competent witness and shall be allowed to testify without prior qualification in any judicial proceeding involving the alleged offense. Trier of fact is to determine the weight and credibility to be given to the testimony.

4 Child under 12 years may not testify under oath unless court is satisfied that child understands the nature of an oath.

FOOTNOTES TO CHART

5 Exception for sexual abuse cases repealed. New language reads: "A child describing any act of sexual contact or penetration performed on or with the child by another may use language appropriate for a child of that age."

6 Ariz. Rev. Stat. § 13-1416 (1984);
Colo. Rev. Stat. § 18-3-411 (3);
Ill. Rev. Stat. ch. 38 para. 115-10 (1983);
Ind. Code § 35-37-4-6 (1984);
Kan. Stat. Ann. § 60-460(dd) (1982);
Minn. Stat. § 595.02(3) (1984);
S.D. Codified Laws Ann. § 19-16-38 (1984);
Utah Code Ann. § 76-5-411 (1983);
Wash. Rev. Code § 9A.44.120 (1982).

Not on chart: A related provision used in some states permits the use of out-of-court statements in a criminal prosecution if the witness is available to testify. See, for example, Del. Code Ann. tit. 11, § 3507 (1953) (statement can be consistent or inconsistent).

7 Corroboration is not required.

8 Ala. Code § 12-21-202 (1940);
Alaska Stat. § 12.45.048 (1982);
Ariz. R. Cr. P. R. 9.3(c) (1973);
Cal. Penal Code § 868.7(a) (1983);
Fla. Stat. § 918.16 (1977);
Ga. Code § 17-8-53 (1933);
Ill. Rev. Stat. ch. 38 para. 115-11 (1983);
La. Rev. Stat. 15:469.1 (1981);
Mass. Gen. Laws Ann. ch. 278 § 16A (1923) and 16c (1978);
Mich. Comp. Laws §750.520;
Minn. Stat. § 631.045 (1982);
Miss. Const. Art. 3 § 26;
Mont. Code Ann. § 3-1-313 (1977);
N.H. Rev. Stat. Ann. § 632-A: 8 (1979);
N.Y. Jud. Law § 4 (1968);
N.C. Gen. Stat. § 15-166 (1981);
N.D. Cent. Code § 27-01-02 (1974);
S.D. Codified Laws Ann. § 23A-24-6 (1983);
Vt. Stat. Ann. tit. 12, § 1901 (1947);
Wis. Stat. §970.03(4) (1979).

Not on chart: Utah Code Ann. § 78-7-4 (1953) Utah's law authorizing the closure of the courtroom in an action of "..., seduction,..., rape, or assault with intent to commit rape," has been construed to apply only in civil actions to avoid conflict with the Constitution.

9 This provision applies to the preliminary hearing.

10 This provision provides for in camera testimony.

11 Exception for a reasonable but limited number of members of the public.

FOOTNOTES
TO CHART

12 Alaska Stat. § 12.45.047 (1982);
Ariz. Rev. Stat. Ann. § 12-2311 (1978);
Ark. Stat. Ann. §§ 43-2035 to 43-2037 (1981, 1983);
Cal. Penal Code § 1346 (1983);
Colo. Rev. Stat. § 18-3-413;
Fla. Stat. § 918.17 (1984);
Ky. Rev. Stat. § 421.350 (1984);
Me. Rev. Stat. Ann. tit. 15, § 1205 (1983);
Mont. Code Ann. §§ 46-15-401 to 46-15-403 (1977);
N.M. R. Cr. P. R. 29.1 (1980) (based on N.M. Stat. Ann. § 30-9-17 (1978));
S.D. Codified Laws Ann. § 23A-12-9 (1983);
Tex. Crim. Proc. Code Ann. § 38.071 (1983);
Wis. Stat. § 967.04(7) (1983).

Not on chart: Iowa Code § 232.96 applies to petition alleging a child in "need of assistance" in juvenile proceedings, not criminal prosecutions.)

Not on chart: A related provision sometimes authorized by state law permits a deposition in sexual assault cases to be used in lieu of live testimony if the accused consents. See, for example, Va. Code § 18.2-67 (law does not specify videotape).

13 Defendant present, but the court to ensure child cannot hear or see defendant.

14 Testimony to be taken under the Rules of Evidence.

15 Court order "for good cause shown."

16 Court finding "that further testimony would cause the victim emotional trauma so that the victim is medically unavailable or otherwise unavailable..."

17 Upon application, court to make preliminary finding whether "the victim is likely to medically unavailable or otherwise unavailable..."; at trial, court to find whether "further testimony would cause the victim emotional trauma so that the victim is medically unavailable or otherwise unavailable..."

18 Court finding that "there is substantial likelihood that such victim or witness would suffer severe emotional or mental distress if required to testify in open court."

19 Court "expressly finds that the emotional or psychological well-being of the person would be substantially impaired if the person were to testify at trial."

20 Court Rule. Court order upon "showing that the child may be unable to testify without suffering unreasonable and unnecessary mental or emotional harm." (Statute. Court order "for good cause shown.")

21 For a child witness $\leq$ 12 years old, testimony may be videotaped without court findings. For a witness > 12 years old, court must find the witness "is likely to suffer severe emotional or mental stress if required to testify in person..."

FOOTNOTES TO CHART

22 Court finding that "further testimony would cause the victim emotional trauma, or that the victim is otherwise unavailable...or that such testimony would...be substantially detrimental to the well-being of the victim..."

23 Court order where "there is a substantial likelihood that the child will otherwise suffer emotional or mental strain."

24 The videotapes are listed as an exception to hearsay in R. Evid. R. 804.

25 Testimony to be videotaped at preliminary hearing.

26 Stenographical testimony or other court approved means also available. Videotapes are specified in the videotape law as an exception to hearsay.

27 Victim in prosecutions for sexual intercourse without consent if victim <16 years; deviate sexual conduct, incest (no age specified).

28 Videotapes are specified in the videotape law as an exception to hearsay.

29 Videotape law applies to testimony presented to the Grand Jury.

30 Ky. Rev. Stat. § 421.350(3) (1984);
La. Rev. Stat. 15:260 (1984);
Tex. Code Crim. Proc. Ann. art. 38.071(3) (1983).

31 Ky. Rev. Stat. § 421.350(1) and (2) (1984);
La. Rev. Stat. 15:440.1 through 15:440.6 (1984);
Tex. Code. Crim. Proc. Ann. art. 38.071(1) and (2) (1983).

Senator HAWKINS. Thank you.

I believe this is the first time the NIJ study has been made public?

Ms. WHITCOMB. Yes—the final report is not yet published.

Senator HAWKINS. So this is just an interim report. We thank you for sharing that with us today.

Mr. Yelverton is the executive director of the National District Attorneys' Association, and he is accompanied by Mr. Bud Cramer of Huntsville, AL.

And Senator Denton has just sent us a note that he cannot be here right now. He is trying very hard to get here, but we have about 18 appointments, you know, per hour, and many of them mandatory. But this is where he prefers to be, and he gave me this statement:

> It is with a great deal of pleasure that I introduce the Honorable Robert "Bud" Cramer, the District Attorney for Madison County, Alabama. Bud has been a pioneer in the fight against sexual abuse in the Huntsville, Alabama area. In 1983, he formed a Sexual Abuse Task Force of doctors, treatment experts, teachers, school officials, lawyers, prosecutors, police and social workers. The Task Force was devoted to the identification, prevention and treatment of child sexual abuse. The Task Force gave way to the creation of a private, nonprofit Children's Advocacy Center in Madison County. The Center handles all agency involvement with an abused child, including the examinations by trained volunteer doctors; additionally, special teams of protective service workers and police who are skilled at interviewing children will interview the child in rooms at the Center which are appropriate to the child's age. Any further interviews are done by the same team so as not to expose the children to more strangers.

The Senator states he is very proud of your efforts and looks forward to hearing your testimony. We will include Senator Denton's introduction statement in the record at this point.

[The material referred to follows:]

INTRODUCTION BY THE HONORABLE JEREMIAH DENTON
OF THE HONORABLE ROBERT E. "BUD" CRAMER
BEFORE THE SENATE SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

MAY 2, 1985

MADAME CHAIRMAN:

IT IS WITH A GREAT DEAL OF PLEASURE THAT I INTRODUCE YOUR NEXT WITNESS, THE HONORABLE ROBERT E. "BUD" CRAMER, DISTRICT ATTORNEY FOR MADISON COUNTY, ALABAMA.

BUD HAS BEEN A PIONEER IN THE FIGHT AGAINST SEXUAL ABUSE IN THE HUNTSVILLE, ALABAMA AREA. IN 1983 HE FORMED A SEXUAL ABUSE TASK FORCE OF DOCTORS, TREATMENT EXPERTS, TEACHERS, SCHOOL OFFICIALS, LAWYERS, PROSECUTORS, POLICE AND SOCIAL WORKERS. THE TASK FORCE WAS DEVOTED TO THE IDENTIFICATION, PREVENTION AND TREATMENT OF CHILD SEXUAL ABUSE.

THE TASK FORCE GAVE WAY TO THE CREATION OF THE PRIVATE, NONPROFIT CHILDREN'S ADVOCACY CENTER IN MADISON COUNTY. THE CENTER HANDLES ALL AGENCY INVOLVEMENT WITH AN ABUSED CHILD, INCLUDING EXAMINATIONS BY TRAINED VOLUNTEER DOCTORS. ADDITIONALLY, SPECIAL TEAMS OF PROTECTIVE SERVICE WORKERS AND POLICE, WHO ARE SKILLED AT INTERVIEWING CHILDREN, WILL INTERVIEW THE CHILD IN ROOMS AT THE CENTER WHICH ARE APPROPRIATE TO THE CHILD'S AGE. ANY FURTHER INTERVIEWS ARE DONE BY THE SAME TEAM SO AS NOT TO EXPOSE THE CHILDREN TO MORE STRANGERS.

MADAME CHAIRMAN, I AM PROUD OF BUD'S EFFORTS AND HIS COMMITMENT TO DEAL EFFECTIVELY WITH CHILD SEXUAL ABUSE. THE CHILDREN'S ADVOCACY CENTER STANDS AS A MODEL OF COMMITMENT FROM PUBLIC AND PRIVATE AGENCIES THAT OTHER JURISDICTIONS WOULD DO WELL TO FOLLOW.

I COMMEND BUD TO YOU, KNOWING THAT HIS TESTIMONY TODAY WILL BE MOST ENLIGHTENING.

THANK YOU, MADAME CHAIRMAN.

Senator HAWKINS. At this time, we will hear from Mr. Yelverton.

Mr. YELVERTON. Thank you, Madam Chairman.

We recognize that time is short, and we have filed with the committee written testimony, and we will not reiterate that testimony here.

I would, however, like to point out briefly several salient points made in that statement and relinquish the remainder of our time to Mr. Cramer, who is very much involved on the local level, where primary responsibility for protecting our children rests.

We appreciate the opportunity to appear and speak on the importance of child sexual abuse on behalf of over 7,000 member prosecutors from throughout the United States.

I am comfortable in saying, Madam Chairman, that in no other dimension of our civilized society have we failed so miserably to protect those who depend on us so completely as we have failed our abused children. This neglect can be traced to the beginning of our recorded history.

However, recent dramatic events have, I believe, so burdened our consciences and made our neglect so apparent that dramatic things are beginning to happen at all levels of government. The legislation being considered here today, the Children's Justice Act, is evidence of these dramatic events.

It is heartening to see this committee in the forefront of legislation designed to effect constructive and rational reforms in our handling of child sexual abuse cases.

This association and our recently formed research affiliate, the American Prosecutors Research Institute, is very much involved, and this association, to every extent possible, is prepared to exert our energies and our efforts and our resources to see that the things you have suggested here in this legislation are accomplished throughout this country.

Child abuse is a serious crime, and consequently, the local prosecutor is the official primarily responsible for seeking the appropriate redress of the offense. The prosecutor must also assure that the child is protected and guard against further trauma in whatever form that trauma might threaten.

To assist the Nation's prosecutors to develop a greater sensitivity to the special nature of child sexual abuse cases, a series of intense training and problem identification conferences are planned by our association and the National District Attorneys College in Houston, TX. Beginning Saturday, approximately 150 prosecutors from throughout America will meet in Washington in a 1½-day emergency session on the subject of child sexual abuse. This problem identification session is being held in cooperation with our affiliate, the American Prosecutors Research Institute.

The information that will be gathered at this symposium will be translated into association policy positions, which in turn will determine the manner in which the combined resources of this association and the American Prosecutors Research Institute will be expended in the months ahead.

Child sexual abuse has already been identified as one of our association's highest priorities, and the committee can rest assured that, following the meeting this weekend, our priorities in that im-

portant area will become even better defined and more highly focused.

In addition to the symposium scheduled this weekend, as I stated, the National College of District Attorneys will have two trial technique seminars—one next weekend in Chicago, and one this summer.

Madam Chairman, before I relinquish the remaining time to Mr. Cramer, I would like to advise the committee of one further positive step being taken to assist the Nation's prosecutors to do a better job in handling child sexual abuse cases.

We will present to our board of directors this weekend at our Child Sexual Abuse Symposium a plan for the formation of the National Center for the Prosecution of Child Abusers. We would anticipate substantial funds from Federal sources to be matched by funds from the private sector for the establishment of this center. The center will undertake several responsibilities, including the gathering and sharing of information and expertise on model prosecution programs like Bud Cramer's, with prosecutors throughout the country; reporting and tracking changes in pertinent case and statutory law in every jurisdiction, and then disseminating this to America's prosecutors; monitoring and evaluating changes in State and Federal legislation, eventually leading to development of model legislation; providing litigation support for jurisdictions which do not have resources to provide that service for themselves, and to coordinate local and regional interdisciplinary teams to assist local prosecutors in the investigation and preparation of child sexual abuse cases; and also, assisting local prosecutors in the design and implementation of fundraising efforts through the American Prosecutors Research Institute's Development Branch to support the establishment and maintenance of these programs.

Another need, Madam Chairman, as I am sure that you already recognize, is better cooperation on the Federal level, in addition to the efforts that we will make to assist local prosecutors to deal with child sexual abuse cases. There is a critical need for coordination at the Federal level to assure that all Federal agencies are concentrating their efforts and resources in one area.

Madam Chairman, despite what appears at first examination a rather dismal assessment of our justice system's ability to properly respond to child abuse cases, there are a number of exciting and innovative programs being tested and refined by local prosecutors. The gentleman to my left, Mr. Bud Cramer, district attorney from Huntsville, AL, has such a program, that is considered a model program and worthy of replication nationally.

If it pleases the chairman, I would relinquish the remainder of my time to Mr. Bud Cramer.

[The prepared statement of Mr. Yelverton follows:]

STATEMENT

OF

JACK E. YELVERTON
EXECUTIVE DIRECTOR
NATIONAL DISTRICT ATTORNEYS ASSOCIATION

BEFORE

UNITED STATES SENATE

COMMITTEE ON LABOR AND HUMAN RESOURCES

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

HEARINGS

ON

THE CHILDREN'S JUSTICE ACT

WASHINGTON, D.C.
MAY 2, 1985

Good morning. I am Jack Yelverton, Executive Director of the National District Attorneys' Association. Our Association is the only organization in the United States representing our nation's prosecutors. We represent 6,500 prosecutors who are the key elected and appointed officials at the grass roots level who are responsible for protecting America's children against criminal acts such as sexual abuse.

We as prosecutors are very concerned about the growing phenomenon of child sexual abuse in this country. Today even as we meet to give and hear testimony on the Children's Justice Act, which is designed to alleviate the problem in significant ways, there are children who are being victimized by child molesters. Most of these children are the victims of their own relatives or close family friends.

As if the infliction of these traumatic atrocities was not enough, the suffering of the children is, more often than not, compounded by the manner in which they are treated once they enter the justice system. In all fairness, this further victimization is generally the result of ignorance rather than neglect.

The trauma that the child has experienced at the hands of the sexual abuser may be increased substantially due to the duplicative and insensitive responses on the part of the criminal justice system.

The traditional criminal justice system was not designed to accommodate the child's developmental stages and, consequently, has made the young child stand alone, often against an accused adult who is viewed as a pillar of the community. Children are also often subjected to multiple interrogations by several different adults. This harsh and insensitive system in many ways treats children as adults, forcing them to come face to face with their molester, in a hostile, alien, adult court environment. Although treated as an adult in many ways, the child's testimony is suspect and often totally discarded as unbelievable.

We must develop sensitivity to the child's developmental stages. We must distinguish between the real limitations of the child and those fictional limitations argued by the defense. Only by recognizing the uniqueness of a child as a witness can we successfully prosecute these cases and significantly reduce the trauma to the child.

There is much work that must be done to better protect our children from molestation and other forms of abuse. Until recently, as a nation we have been content to virtually ignore the problem of child sexual abuse, especially when that abuse occurred through an incestuous relationship. As a result, the lives of thousands of innocent children have been permanently and seriously marred.

Recently, a few monumental and appalling cases have jarred us from our lethargic state and overcame our inertia and some good things are beginning to happen. It is, indeed, heartening to see this committee in the forefront of this national movement to develop constructive and rational reforms in our handling of child sexual abuse cases.

Senator, nowhere is the movement toward constructive reform greater than in the prosecutorial community. And the legislation set forth in S. 140 will encourage and facilitate this reform commensurably.

An example of our concern and our determination is reflected in efforts presently underway in the National District Attorney's Association.

Our Association is holding an emergency Symposium on Child Sexual Abuse this very weekend in Washington. The symposium is designed for problem identification - a determination of the primary impediments to the successful prosecution of child sexual abuse cases without further traumatization of the innocent child.

One week from today the National College of District Attorneys will

hold a seminar in Chicago on the subject of child abuse and exploitation. That seminar is designed to hone the prosecutor's effectiveness in dealing with these sensitive cases.

In addition to efforts to improve our effectiveness as prosecutors and heightening our sensitivity to the needs of these victimized children, we are also engaging in a thorough, soul-searching examination of the manner in which society in general and our justice system in particular deals with the family unit and whether present processes can be refined to protect the victim while minimizing the impact on the family unit. The legislation being considered here today will aid greatly in this effort.

Despite what appears on first examination to be a totally dismal assessment of the justice system's ability to properly respond to child abuse, there are a number of innovative programs being tested and refined by prosecutors. The gentleman accompanying me has such a program, and it is already being viewed as a model for replication in other jurisdictions. The gentleman I refer to is the Honorable Robert "Bud" Cramer, District Attorney from Huntsville, Madison County, Alabama.

It is in local communities like Huntsville where our efforts must be concentrated. It is here that the interdisciplinary professionals

must join forces to insure both successful prosecution of the child molester while insuring that further trauma to the child is minimized. It is here that new investigative and prosecutorial methods must be developed and refined. It is here that movements to reform rules of evidence must start. And it is here that private citizens and corporate entities must join in community awareness programs, counseling programs, and shelter facilities.

While the primary responsibility for dealing with child sexual abuse is at the local level, this committee has identified through the pending legislation several critical and legitimate areas of federal involvement. Other areas where federal involvement is appropriate include the following:

Better Coordination at the Federal Level Is Needed:

Child sexual abuse, intra-family or otherwise, is a serious crime. Consequently, the local prosecutor is the public official in whom the primary responsibility for redress resides. This appears to be selfevident.

However, we fear that the various federal agencies responsible for addressing facets of the child abuse problem, including the Department of Health and Human Services and the Department of Justice, have not recognized this crucial prosecutorial function in

their program plans and priorities.

It is also our view, and we have so suggested to Attorney General Edwin Meese III, that the Coordinating Council on Juvenile Justice and Delinquency Prevention carefully review the programs of all federal agencies that expend funds on child abuse to assure that programs are well coordinated, and take into account the critical role of the prosecutor.

Better Coordination at the Local Level is Key to Improved Prosecution and Reduced Trauma to Child Victims:

District Attorney Bud Cramer will describe to you his unique program for coordinating the efforts of local agencies involved in child sexual abuse cases. I want to reinforce the importance of encouraging and supporting local coordination both on an individual case level and at a programmatic, preventive and policy level. Prosecutors can and should play a leadership role in these efforts. Prosecutors recognize the need to work with other disciplines to jointly interview the child victim and to investigate, prepare, and prosecute the case more effectively and efficiently and in a way that will minimize trauma in the child.

National Center for Prosecution of Child Abuse Cases Needed:

Prosecution of child sexual abuse is a matter almost exclusively for

local prosecution. Virtually all of the important work and important decisions that effect a case occur at, for example, District Attorney Cramer's level. However, there are important support capabilities that prosecutors need that can most efficiently be provided through a national network. The following are examples of those capabilities:

1. Share information and expertise on model prosecution programs like Bud Cramer's with other prosecutors throughout the country.

2. Report and track changes in case and statutory law in every jurisdiction and then dissiminate this to America's prosecutors.

3. Monitor and evaluate changes in state and federal legislation based upon the actual case experience of prosecutors eventually leading to the development of model legislation.

4. Provide litigation support for jurisdictions which do not have such resources.

5. Coordinate local and regional interdisciplinary teams to assist local prosecutors in the investigation and preparation of child sexual abuse cases.

6. Assist local prosecutors in the design and implementation of fund-raising efforts through the American Prosecutors Research Institute,s development branch to support the establishment and maintenance of these interdisciplinary teams.

There is much to be done in this country to provide greater protection for our children. There is much to be done to refine the processes employed once a child has been sexually abused. The refinement of legal processes is often painfully slow and cumbersome especially when constitutional issues are involved.

The Children's Justice Act will assist in this task.

While councils of government, state and federal commissions, courts of law, bar associations, and law schools engage in their thoughful deliberations on the proper statutes, adequate constitutional guarantees, guidelines, delegations of authority, and budget constraints, the prosecutors of the nation must work deligently with the tools and expertise available to provide the greatest possible protection for our children.

The Children's Justice Act will assist in this task. Thank you.

PROTECTING THE CHILD IN SEXUAL ABUSE LEGAL PROCEEDINGS

SUMMARY

One out of every four girls and one out of every eleven boys will be victims of sexual abuse before the age of eighteen. It is our duty as legislators to find the most judicious and expeditious way to punish the perpetrator, protect the innocent and provide an environment that will shelter our children from further hurt.

As a member of the House Select Committee on Children, Youth and Families, I held this hearing to look at ways that our legal procedures can be changed to insure that while the rights of the accused are protected, the child victim is not victimized again in the legal process. I am pleased to present this summary of recommendations which resulted directly from this hearing.

There is a general consensus that statutory and administrative changes of the present legal process should accomplish one of three major reforms: improve handling of child abuse cases so as to reduce trauma to the child; improve the chances of successful prosecution or legal action against child molesters; and improve procedures to protect children from sexual abuse. Recommendations include:

I. Improve handling of child abuse cases so as to reduce trauma to the child. Suggested reforms may include:

A. Reform the interview process

a. Provide for a reasonable limit on the number of times the child is interviewed.
b. Record the first interview
c. Have specially trained personnel do the first interview.

B. Coordinate and expedite juvenile and criminal court proceedings:

a. Single but thorough investigation;
b. Sharing of information between criminal and civil court systems;
c. Establishing one prosecutorial unit to handle; both civil and criminal cases.

C. Use of specially trained interdisciplinary teams to handle child abuse cases. Professionals could include representatives from any or all of the following:

a. Psychologists;
b. Social Workers;
c. Medical Professionals;
d. Juvenile Court Officials;
e. Law Enforcement Agents.

D. Appoint a Guardian Ad Litem or legal Counsel to the child in all civil and criminal proceedings involving children who is responsible for conducting an independent investigation, to report to the court the recommendations from that investigation regarding what actions should be taken that will be in the best interests of the chi'd.

II. Possible reforms designed to improve the chances of successful prosecution or legal action against child molesters. Suggested statutory and non-statutory reforms may include:

A. Adoption of a specific definition of child sexual abuse.

B. Modifications of certain evidentiary restrictions regarding:

a. Hearsay rule;
b. Corroboration requirements;
c. Qualifications for children witnesses.

C. Establishing procedures for the videotaping of victims statements and testimony.

D. Alternatives to traditional courtroom setting:

a. Hearing testimony outside of the courtroom, e.g. in the judges chambers;
b. Use of child-size furniture;
c. Allowing child to sit in the lap of a trusted adult during questioning;
d. Questions to child posed through trusted adult;
e. Removing the audience from the courtroom during testimony of child;
f. Frequent recesses;
g. Not requiring child to face his/her abuser during testimony;
h. Use of anatomically correct dolls, artwork or other props.

III. Improve procedures to protect children from sexual abuse:

A. Grant criminal courts the authority to grant civil protection orders to protect children from further abuse.

B. More extensive use of treatment programs for both sexually abused children and for child molesters.

C. Grant Juvenile court the authority to enforce treatment orders; or to develop guidelines allowing for criminal prosecution to proceed if treatment is not successful.

D. Enhance public awareness of existing prevention and treatment centers and provide support for increasing the number of available treatment and rehabilitation programs for victims and abusers.

CHILDREN'S JUSTICE REFORM ACT
BILL SUMMARY

This bill amends Public Law 98-457, The Child Abuse Amendments of 1984.

Section 401. The Secretary of Health and Human Services is authorized to make additional grants to states under section 4(a) of the Child Abuse Prevention and Treatment Act for identification, treatment and prevention of sexual abuse.

Section 402 (a). A State is eligible for assistance under this title if the Secretary determines, that within one year after the enactment of this title, the State has enacted legal and administrative changes with respect to the investigation and prosecution of child sexual abuse cases as provided in subsection (b).

Section 402 (b)(1). A State shall have in effect a child sexual abuse program which includes at least one statute or administrative procedure to carry out the purposes of the categories described in (2), (3) and (4).

(2). Improved handling of sexual abuse cases so as to reduce the trauma to the child victim. Suggestions include:
- A. Establish interdisciplinary teams
  - a. law enforcement officers
  - b. child protective service workers
  - c. prosecutors
  - d. child advocates
  - e. mental health professionals
  - f. medical personnel
- B. Coordinate court proceedings for handling intrafamily child sexual abuse
- C. Provide specialized training of law enforcement judicial, legal, and child welfare personnel

(3). Improve chances of successful prosecution or legal action against child molesters. Suggestions include:
- A. specific definition of child sexual abuse
- B. modify certain evidentiary restrictions such as
  - a. hearsay rule
  - b. corroboration requirement
  - c. qualifications of child sexual abuse victims as a witness
- C. establish procedures for videotaping victims statements and testimony

(4). Improve procedures to protect children from sexual abuse. Suggestions include:
- A. provide a guardian ad litem to make an independent investigation and recommendations as to what is best for the child victim
- B. grant courts the authority to grant civil protection orders
- C. provide treatment programs

Section 402 (c). States are encouraged to develope there own reforms, the above are only guidelines that could be followed in achieving the objectives (2), (3) and (4).

Section 403. The Secretary shall issue regulations for the implementation of the above sections.

Section 404. Authorization of $12,000,000 for the fiscal years 1986 and 1987.

Senator HAWKINS. Mr. Cramer.

Mr. CRAMER. Senator Hawkins, thank you very much for allowing me to be here, and thank you also for putting the priority emphasis on this very critical and complicated subject matter.

I would like to speak to you from the voice of a field—experienced professional who comes in and tells you that life in the trenches with children and the criminal justice system is difficult indeed.

We found in our community back in 1981, when we laid the groundwork for the seeds that eventually produced our program, we found that professionals in the community were not only fragmented and not working with one another; we found that they did not want to work with one another. We found that they were poorly trained to interface and interact with children and families in the community in this most difficult subject matter.

Let me quickly point out that I am one of those professionals; I was poorly trained to do what I inevitably had to do—but it can be done.

We put together a team approach in our community, a multidisciplinary team approach. It was formed by me, a prosecutor in the community. Basically, it was a team approach that was intact to deal with cases of child abuse, and at that particular time, not child sexual abuse. In late 1981 came a number of cases of child sexual abuse, and incredibly, since that time, it has reached what many other communities are calling an epidemic level.

Currently, at team review, the multidisciplinary team that is primarily composed of a prosecutor, protective service worker, law enforcement detective, treatment professionals from the community, medical personnel, guardian ad litems, and a victim witness advocate from the district attorney's office, we meet regularly, and we review specific cases of child abuse and child sexual abuse.

Currently, 95 percent of everything that we review are cases of child sexual abuse. Let me point out that prior to 1980, that figure was between 2 and 5 percent. So in our community, the level of involvement with child sexual abuse cases has increased dramatically.

We have found that the professionals in the community were not trained to become involved with the children and families. Law school does not prepare you to interview a 9-year-old child about details of child sexual abuse. We found that social workers, who are more particularly trained to deal with families, that they were not properly trained to interview 7-, 8-, 9-, 10-year-olds about specific experiences of child sexual abuse across the professional board. Law enforcement detectives did not want to work with social workers; social workers did want to have their system interfered with by a criminal prosecutor who appeared or sounded like he would be recommending criminal prosecution in every case.

We did an illustration, Senator Hawkins, before a child sexual abuse task force that we had, of a matter that involved a 12-year-old child and a grandmother, and it was actually a 2-year ordeal for that child and grandmother. The child blurted out awkwardly to the grandmother during a weekend visitation. The grandmother reported it the next day to the police department and then was proceeded to be bounced from agency to agency to agency, from one

institutional setting to another institutional setting. In each setting, the interview process began all over again with a different professional. By the time that grandmother and child were through with this system, over 2 years had gone by.

We did this illustration for the community professionals, saying, "Do you want your system to work this way?" And we agreed that night that we as professionals could not responsibly stand back and say that many families and children could survive, much less benefit, from a system like this. The system was revictimizing or assaulting the victims in the cases.

It was at that time that we proposed the formation of the center that we called the Children's Advocacy Center. We felt it was particularly important to locate this center in a house, a non-institutional setting, and it is located in a house in Huntsville, AL. At this house, all professionals come to this place to be involved with children and families. Now, this system works by agency agreement. The law enforcement agency, if another grandmother and grandchild appear there in their effort to go to somebody and to begin telling this story, that child and grandmother will be directed to the Children's Advocacy Center. We have joint interview teams available there, composed of social workers and law enforcement detectives who are properly trained with protocols, cross-professional protocols, of obtaining information from the child and family member, if there is a family member with the child, or other professional person who might be there with the child, so that that information can be reviewed by other professionals without the child having to start all over again and be reinterviewed according to another protocol of another professional agency.

Now, what we are doing here is videotaping in our State, in our program, also, but we are videotaping from the point of view of not taking that videotape in court at this particular time, but to use the videotapes of the interviews to allow other professionals to look at what the child is saying and go back to the initial interview team and having that interview team reinterview the child if the other professional feels that that is necessary.

What we are trying to do is solve the dilemma of having the child and family go through multiple interviews with a number of professionals and strangers. The child will initially be interviewed; if the interview takes sessions for the interview to be completed, then those sessions will be completed there at the house, the Children's Advocacy Center. Then the child will be referred to therapy, and the staffing and team review will begin there. This is not just a prosecution-oriented program, though a prosecutor will be available to review the cases with the other professionals there and will be available to review the case for possible criminal prosecution.

Recommendation for criminal prosecution will be decided by the team of reviewers, the professional people that have become involved in the matter there at the Children's Advocacy Center. This is a program that has been in existence, even before we located in this house. It is a program that has proved to be very successful in our community.

The percentage of cases that we are now taking into the criminal justice system has increased incredibly. Completing the year 1984, we had a 593 percent increase in the number of cases that we took

into the criminal justice system that year versus the number of cases that were taken through the year 1980.

I was particularly moved by the Landises appearance this morning and particularly thought of them in their effort to describe what they went through from start to finish. A center, a house available, a central facility like this, that is identifiable not necessarily from a professional's point of view, but from a child's point of view, from a family's point of view, in my opinion is critically necessary to allow the families to begin to get the information that they will need in order to survive possibly going through the criminal justice system.

It has alarmed me that over the years, a number of professionals have said, "Don't get involved in the criminal justice system," and a number of intervention programs have been devised, routing cases around the criminal justice system, because the horrors of the criminal justice system were so awful.

What we found in our community is that initially, therapists that were advising their patients and clients not to go through the criminal justice system, the experience, the multidisciplinary experience in our community, the task force, and the creation of the Children's Advocacy Center Program, those professionals that years ago were saying, "Don't get involved in the criminal justice system" are not saying the criminal justice system is a critical part of the intervention process and that it can be a therapeutic experience even, rather than a counter-productive or even trashing experience for a child and a family. That has been the success story of our program.

I would like to say this. Our program has been, in our region of the country, highly profiled. We were amazed at how quickly other communities were calling and searching and saying, "We need your help; we want to know how you got your community professionals together."

We sponsored a symposium in February that was designed for 100 professionals, the Southeast Symposium on Child Sexual Abuse. It ended up accommodating over 450 professionals from 15 States in the Southeastern United States, and since that time, we have had calls to present programs in many parts of the country all over the southeast.

I point this out to tell you that there is great need, in my opinion, for continued training, coordination that could be available to local communities—and I am telling you that many other communities are calling us, and we cannot accommodate telling those communities the history of our experience and providing them with some training that would be helpful to them.

We do expect to develop our center as a regional training center that we would carry on regularly scheduled training for social workers, law enforcement detectives, and district attorneys' offices, because we feel that that is a critical shot in the arm that those offices must need.

We have recognized that all professionals must search their agencies and find the best of their professions, those professionals that want to become involved with children and families, that want to give this additional training, because too often, you have assistant DA's that are assigned cases who really would prefer not to

handle this type case. It is assistant DA's that are shocked at the subject matter, that do not feel comfortable confronting children with the sexual experiences or physical abuse experiences that they have had.

I applaud your effort. Your legislation is relatively simple, and I like that. It directs the State, but it does not mandate specifically the ABC's of what is done. It has been my experience that the chemistry in each community is a little different; the leadership that is exemplified in each community is a little bit different. And I think we need to back up and allow and say we need to provide the flexibility to allow each community to develop what is successful in their community.

I think it is particularly important that on a national level, that we maintain and provide better coordination and better technical assistance and training to local communities that maybe are not as fortunate as my community. We have been lucky—we have been able to put together from a hodge-podge of funding sources a successful program. But we examine other communities and see that they are years and years behind where we are, and there is not a lot that we can do other than to encourage them and say that it can be done.

Again, on behalf of the children that go through this criminal justice system, I have had to become an expert with children. I did not start off that way. I would like this audience to know, but I do not have time and do not want to take your time, to explain to you the ages of the children and the experiences that they recite that go on in every community. But in order for us to tackle this problem—and we must tackle the problem, or we are going to have a new generation of abusers who are just perpetuating this cycle; we are going to house and warehouse criminals who do not get any treatment and do not get any intervention with the problems that they have, and we are going to have more explosive problems in the long run.

So again, quickly, I want to thank you for this opportunity, and to tell you that we as professionals must get our acts together, and we cannot continue to have policy conference after policy conference after policy conference. We have got to come up with a coordinated program.

Thank you very much.

Senator HAWKINS. Thank you so much. You are a very articulate witness, and we appreciate the example you gave us.

In the interest of time—I have a lot of questions to ask all of you, but I will submit them to you in writing and you can put them in the record—just one question. How is your center financed?

Mr. CRAMER. It is a hodge-podge of financing, Senator Hawkins. We have a private sector fundraising committee that has raised funds for us. However, we could not exist just with private sector funding. We have existed by some State grants that we have been given, but more importantly by the agencies that have donated individuals to the program. I donated three individuals from my office to work in this program full time. The protective service agency has donated a full-time social worker. The law enforcement agencies have donated full-time personnel.

However, the facility or house itself is being purchased from the private sector donations that we have been able to raise so far. We are in the business—unfortunately, we avoided this before—but we are now getting in the business of trying to write for Federal grants and doing things that an office like ours really is not manned to do.

Senator HAWKINS. I believe you stated you were not in the business to take any of these cases to court. Did you say that.

Mr. CRAMER. No, ma'am. I did not mean to say that.

Senator HAWKINS. Have you had any convictions?

Mr. CRAMER. Our conviction rate in child sexual abuse cases is between 60 and 70 percent. That is the success rate.

Now, let me say this quickly. That is deceiving in a way. There is little flexibility in the criminal justice system, but we do exploit—and I use that word respectfully—we exploit what little flexibility there is in the criminal justice system. We have many, many practical problems that many other communities face—the age of the children, the competency of the child to testify according to the current rules of court that we must exist with. A number of things motivate us sometimes to settle cases and not try cases, to get pleas in cases rather than to expose the child to the in-courtroom testimony.

However, in one month in 1984, we took 12 children in 11 different cases into the courtroom. That is in one week alone. That is versus zero cases in the year 1979.

So our participation, our taking children into the criminal justice system is a day-to-day fact of life for us in the district attorney's office.

Senator HAWKINS. And you counsel the parents—like the Landises——

Mr. CRAMER. Yes, we do.

Senator HAWKINS. They would come to your center, and you as professionals counsel them?

Mr. CRAMER. They come to the center. We get involved with the parents through the victim witness program. We have non-lawyers that are available; the minute the case is assigned or it appears that we are going to accept a case for criminal prosecution, our victim witness clerk has been involved with the professionals that have been reviewing the case; they meet with the families at the Children's Advocacy Center in a home-like setting, and they begin explaining the realities, such as they are, of the criminal justice system. They educate the families.

Senator HAWKINS. How would you answer their dilemma that if they seek therapy for their 4 year-old, that is considered coaching?

Mr. CRAMER. That has not been my experience. And in fact, we refer families very quickly for therapy. We refer the children, their families into separate therapy programs that have been designed even in our community and our resources are very narrow. We have not faced that situation in court. Of course, the defense attorneys are quick to point out that the child has been interviewed 7 times by a therapist. We accept that, and we begin to tell the jury when we are selecting the panel that, "This is what you are going to find."

We found that one of our problems in our community as in any other community is in educating the public about the dynamics of child sexual abuse; what children go through, and the number of interviews that it might take to get the complete story out.

Children are not going to blurt out to you in one interview session A to Z of what they have been involved in. It is not to say that because they only go A through D in the first session that they are lying to you. And we face in the courtroom the suggestion or allegation from the defense attorney that because they did not take us through A to Z in the first session that they must be lying.

But we have had problems. We have lost cases because jurors just ran from this subject matter. No one wants to believe that a natural parent, a teacher, a daycare worker, a trusted adult, would become sexually involved with a very young child particularly. And any way of explaining that way is a way of running from the reality of what you must face if you believe that. So we have lost cases that shocked us, that made us wonder how could a jury not believe this. It set us back to some extent, but we learned from that, also.

And one thing that we were concerned with was the consequences of encouraging a child and family to come into the criminal justice system, and then presenting that case before a jury and having the jury say, in effect, "We don't believe you. We find the defendant not guilty." But we have relied on the therapists in our community, and we quickly and up front say, "We cannot promise you success in this case. If we lose the case, it could be for reasons of technical rulings by the court." It is more than likely if we lose the case the fault of the prosecutor involved. So that we begin to prepare the child and family for the fact that they do not have to blame themselves if the case is lost, and we compare that to burglary cases where a person whose house has been broken into, that case may not be successfully prosecuted, but it is not the fault of the homeowner there. And I think that is part of the whole educational process that a district attorney's office and the entire criminal justice system must engage in.

You cannot successfully from a prosecutor's point of view get involved in cases of child abuse and child sexual abuse without a full and complete victim's program existing in your office. And that is why it is fortunate that finally, on a Federal level, we are seeing emphasis placed on money trickled back down to the States so that programs that are in existence, that have demonstrated priorities for child sexual abuse cases, can have additional money to provide additional personnel that can become involved with families. More often than not, families confront the criminal justice system at the worst of all possible times. There are very few well-educated adults that know very much about the criminal justice system, and its intricacies and its many, many faults, and that is why we have a duty to begin from the beginning, explaining the vulnerabilities of the system so that you can understand to the extent that you can understand what we can do and what we cannot do.

Senator HAWKINS. Thank you very much. This has been a very dynamic panel. I will have questions for you.

I am very interested in the findings and recommendations of the National District Attorneys' Association that you are having this

weekend. If the budget keeps us here in Washington, I would like to sneak out there and attend your session.

I would be willing, if you would like, to keep the record open, if you would like to submit any findings or recommendations for the official record from your conference.

Mr. YELVERTON. Yes, we would, Madam Chairman.

Thank you.

Senator HAWKINS. Thank you very much, and you may be excused at this time.

Our next panel of witnesses will discuss the need for prevention, education and treatment programs. And if you do not know Kee MacFarlane, Mr. Cramer, you will get a little view of her at this time. Kee MacFarlane is a well-known expert in this field. She served as a child sexual abuse specialist at the National Center on Child Abuse and Neglect. She now works with the Children's Institute International in Los Angeles, CA. I met her about a year ago, and from reading of her experiences, I am sure she feels that it is longer than 1 year since we have become friends.

Margi Showers is from Ames, IA, and will talk about a unique program that they have to treat chemically dependent teenage girls who are victims of incest.

This is our last panel today. Welcome, Kee. It is good to see you again. You are looking very well in spite of the ordeal you are going through.

And welcome, Margi Showers.

Margi, we will ask you to summarize your statement, if you would, please, and any questions we have for you will be submitted for the record.

STATEMENT OF MARGI SHOWERS, RESIDENTIAL SERVICES DIRECTOR, YOUTH AND SHELTER SERVICES, AMES, IA; AND KEE MacFARLANE, CHILD SEXUAL ABUSE YOUTH AND SHELTER SERVICES DIAGNOSTIC CENTER, CHILDREN'S INSTITUTE INTERNATIONAL, LOS ANGELES, CA

Ms. SHOWERS. I will be brief.

My name is Margi Showers. I am residential services director for Youth and Shelter Services, Ames, IA.

I would like to thank you for asking me to be here.

Youth and Shelter Services is a comprehensive community-based, youth-serving agency with prevention education component, youth employment wing, out-client counseling, shelter care, foster care, after-care, and extended residential treatment for chemically dependent young people.

On November 1 of this last year, we opened Seven-12, which is an extended residential treatment center for sexually abused, chemically dependent female adolescents. We have just graduated our first client.

Funding was received through the cooperation of Mary Ellis from the Iowa Department of Substance Abuse. We also have title XX moneys, and we have some money from the Office of Juvenile Justice.

What we have found over the years—and we have a 5½-year history of working with chemically dependent young people—was that

if we did not address the sexual abuse issue, then the young women, particularly, relapsed and resumed drug usage. If we did not address the chemical dependency issue and tried to address the sexual abuse issue first, we could not work with them, since they were using most of the time.

At one point, 80 percent of the chemically dependent girls in our program were victims of familial sexual abuse.

Seven-12 is a program that proposes to treat sexual abuse and chemical dependency simultaneously, and we feel that that is extremely important to do so.

We have 9 clients ranging from age 13 to 17½. They are all graduates of primary chemical dependency treatment, and their abuse has been reported. However, when they come into the house, the investigation process has just begun, and we walk through that with them and with their families.

The house is based on traditional recovery programs and also addresses empowerment issues. We think the most important thing in working with teenagers is to say to them, "You were a victim, but you survived. We are going to teach you how to make viable choices for your life from now on." That is the focus of our program. Included in that focus is boundary setting. The young people that we work with have had no boundaries in their own families. They do not know where they begin and someone else leaves off, so we work in whole-house concept, with the setting of boundaries.

As a consultant, we have a member of the Sexual Abuse Task Force treatment team in our community, Jeannie Beardsley, who ties fathers and mothers programs together in Parents United, and Sons and Daughters programs together to our program. Our clients participate in her programs, and our parents with whom we do family therapy participate in her program. We are all tied together in multidisciplinary teams.

I would like to address the issue of breaking the cycle. I am intrigued by the committee name, "Children, Family, Drugs and Alcoholism," because those are the issues that we deal specifically with at Seven-12.

We believe that alcoholism and drug addiction are physiological diseases. We believe that they create dysfunctional families. We believe that sexual abuse and physical abuse and emotional abuse are byproducts of dysfunctional families, and we feel that in familial sexual abuse, it is essential that we treat the whole family.

If inter-generationally, sexual abuse is demonstrated as a tolerated coping mechanism, and it is not intervened upon then the repetition of it will occur in the next generation.

Currently, I am working with a small group of young men who were sexually abused and are now in therapeutic foster care. They are juvenile perpetrators. They were sexually abused, and now their coping mechanism is to abuse others. We are working within that framework as well as with sexual abuse victims in Ames.

I think it is absolutely essential to have your law. I think it is absolutely essential to have good, clear legislation. Without it, we cannot begin—we cannot even begin.

I think the public awareness campaign is extremely important. The component that I see missing is treatment. There are not enough resources, there are not enough family therapists, and

when a young person finally has the courage to say, "Look what is happening to me," the system is not in place to say, "That's not OK with us." We need to have the system in place, including resources for treatment.

We are very lucky in Ames. We have a multidisciplinary team. We have our house, and people are becoming more and more aware. But there are communities in Iowa where a young person is not believed, where they are ostracized, and where it does not ever get to court. My concern is that a system be put into place on a standard throughout the country so that young people and their families can address this issue.

Without that, I feel that we are going to have to deal with it in the next generation, again and again and again.

Thank you.

Senator HAWKINS. Thank you very much.

Senator Grassley is sorry he could not be here. He is very proud of your program.

[The prepared statement of Ms. Showers follows:]

TESTIMONY
MARGI SHOWERS

RESIDENTIAL SERVICES DIRECTOR
YOUTH AND SHELTER SERVICES
AMES, IOWA

SENATE SUB-COMMITTEE
CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

My name is Margi Showers and I am the Residential Services Director for Youth and Shelter Services. I would like to thank the sub-committee for inviting me here today to speak about the relationship between adolescent sexual abuse and chemical dependency. First, let me tell you about Youth and Shelter Services. The agency is located in Central Iowa and is a comprehensive, community-based, youth serving program providing Prevention Education, Youth Employment Training, Out Client Counseling, Shelter Care, Foster Care, After-care and extended residential chemical dependency treatment. Due to a serious need and lack of services, six months ago Youth and Shelter Services opened a new residential nine-bed facility known as Seven-12. This innovative program is an extended care residential facility for alcoholic and drug addicted, sexually abused, adolescent females. Funding for the house was sought out by Executive Director, George Belitsos, and with the cooperation of Mary Ellis, Director of Department of Substance Abuse, funding was obtained through Iowa Department of Substance Abuse. Supplemental funding includes Title 20 monies as well as Office of Juvenile Justice monies.

Beginning with an out-client recovery program five and a half years ago and then with the opening of Youth Recovery House three and a half years ago, our experience was that traditional recovery programs were ineffective with chemically dependent, sexually abused, females. Over and over again this group

of clients returned to alcohol and drug usage. They could not cope with house structure, maintain personal boundaries nor could they maintain a sober life style. At one point, 80% of the female clients at Youth Recovery House had been sexually abused and we needed new strategies to treat them.

Seven-12 has provided a unique opportunity to treat chemical dependency as well as sexual abuse. The impetus for the house is the hypothesis that in order to successfully treat chemical dependency, the secondary issue of sexual abuse, if present must be addressed. Our experience shows that if the sexual abuse issue is not addressed, the suppression of the painful feelings around the trauma eventually leads to relapse. Conversely, the treatment of chemical dependency is an on-going primary process and no other treatment is relevent unless the client is sober. Aside from the formal components, the foundation on which the house is based and the focus throughout the program is one of empowerment to make choices, including the choice of a chemically free life style. These choices, this empowerment of clients, hopefully, moves them from a learned helplessness victimization role to self-actualized survivors capable of being responsible for themselves.

The program, therefore, includes a recovering staff, Recovery Group, AA in the community, an emphasis on those behavior changes necessary to maintain a chemically free life style, working with a sponsor, socializing with recovering peers, learning to use leisure time well and maintaining responsibilities such as school and/or work, etc. At the same time, each client participates in two survivor groups a week. These groups deal directly with the sexual abuse issues and are facilitated by Seven-12 staff members. Because of the overwhelming dynamic of the treatment of sexual abuse, compartmentalization of the

issues and groups is very important. As a staff, we define the format and time when most of the work can be done around these issues.

In addition, Seven-12 has Jeannie Beardsley, Central Iowa Mental Health, serving as a consultant. Ms. Beardsley also co-facilitates Sons and Daughters, a group modeled after Cerreto's in California at Central Iowa Mental Health and our clients participate in this group once a week. Ms. Beardsley is recognized as one of the finest therapists in Iowa in the treatment of sexual abuse. As a consultant, she ties Sons and Daughters to Survivors Group, offers objectivity and does three hours of staff training monthly. She reviews clients cases in weekly Residential Review with full staff and has occasionally acted as a co-therapist in more difficult family work. She reports that the clients of Seven-12 move through her process 50% faster than other clients. This, of course, may be as a result of being therapy-wise and very sophisticated about the group process or possibly because of the number of groups in which they can deal with the issues.

While the structure of the house program contains many of the elements of traditional residential programs, house groups, orientation, chores, etc., the underpinning of the program is slightly different. As chemically dependent adolescents, the clients have not experienced boundaries, limits and expectations. This is further complicated since one of the primary symptoms in a family where there is sexual abuse is a complete absence of boundaries. These clients have no boundaries, no limits. They re-create their own families by assuming responsibilities for each other as well as for the staff. The clients have no physical boundaries and no apparent sense of individual space. The clients tend to involve themselves in group crisis rather than individual crises. The clients do not, in other words, have a sense of themselves as

individuals. This dynamic affects everything we do in Seven-12. We begin by setting personal space boundaries, "one person to a chair please", and continue to enforce and teach our clients about their own identities and limits. We define their roles as clients and struggle with them to maintain this role. In this process, we attempt to empower them and to move them away from the victim, learned helpless, group consensus role. For their recovery program, it is particularly important that they begin to make conscious choices not to use and to feel empowered to make that choice.

The house serves as a place where you can scream, beat pillows, express rage, cry, grieve, and even act out feelings, within some limits, without fear or discharge or long-term consequences. The clients are encouraged to talk about it and feel it. The emphasis is on staying within safety boundaries but unlike other residential settings the clients are not initially encouraged to channel their anger constructively. This leads to good treatment for clients but stress for staff. Additional support, training and constant supervision of staff is essential to insure this process. Mary Knapp, House Coordinator of Shelter House, has served as a consultant on training needs and stress management for Seven-12 and we find that an objective viewpoint from outside the program is essential in maintaining a healthy staff.

The individual counseling format is, again, compartmentalized and focused on the client as an individual. The emphasis is on working on individual issues, the client's sobriety, the client's family. Family sessions center around appropriate boundaries, working through feelings and participating in treatment as family units. Seven-12 has graduated one client and will soon graduate more. We are re-evaluating the program on an on-going basis and continue to experiment with combinations of components and emphasis so that eventually we will

have a complete, workable process that addresses the issues effectively.

As to breaking the cycle of sexual abuse and drug and alcohol addiction, we believe that chemical dependency is a physiological, possibly genetically linked disease, which creates one kind of dysfunctional families. I need to stress that it is my opinion that alcoholism is not a product of dysfunctional families but rather a casual factor in creating the dysfunction of some families. I believe that abuse, sexual and physical, are by-products of dysfunctional families. If, intergenerationally, abuse has been demonstrated as an acceptable and tolerated coping mechanism, repitition of the abuse will almost certainly occur. Alcoholism creates one kind of dysfunctional family and abuse occurs in dysfunctional families. According to Seven-12 Coordinator, Cheryl Miller, by successfully treating alcoholism and sexual abuse in Seven-12, we hope to intervene on the intergenerational dynamics of abusive situations.

Not all alcoholic families are abusive. All alcoholic families, however, are dysfunctional and one of the possible manifestations of this dysfunction is sexual abuse. Those two issues must be treated simultaneously. Treatment of alcoholism, sexual and physical abuse, and dysfunctional families is crucial if we are to touch the problem. It is only through treatment that we can break the cycle of intergenerational abuse and impact the next generation.

Senator HAWKINS. Kee, we welcome you here.

Ms. MACFARLANE. Thank you.

I was looking at my dress, after spending all day working in it yesterday, speaking in a seminar in it last night, sleeping in it on the plane, and I was thinking it has held up pretty well. I wish my body could learn to hold up together as well as permanent press.

Senator HAWKINS. I understand you took the red-eye special.

Ms. MACFARLANE. Yes.

Senator HAWKINS. I hope you got a wink or two. I have never learned to sleep on a plane.

Ms. MACFARLANE. No; they do not design them that way.

I appreciate being invited here—I was coming to Washington today anyway, so I just hopped an earlier plane. But I, as always, have a lot of things to say about legislation affecting this issue, and I wanted to respond particularly to this bill because I think that, from what I could see during the day today, people have spent a good deal of time talking about the traumas and the systemic problems that face children out there.

I like the intent of this bill because I think it goes toward systemic reform as opposed to bandaid reform, and I think that is really necessary. I think it shows a knowledge of the issues confronting us, and I think it is timely—in fact, I think it is overdue. And I think from where I sit these days, I am beginning to see a tremendous upsurge of a backlash against this problem.

First, we went through This doesn't happen, and then we went through this on the cover of Reader's Digest and Ladies' Home Journal, and now I think we are beginning to see slapwave against it. That is why I think legislation like this is important.

People are getting—already—disgusted and tired of hearing about child sexual abuse. One of the people at the symposium I was at last night was an anchorwoman who recently got a letter saying that her coverage of recent sexual abuse cases showed an appalling lack of good taste, that no one wanted this over their dinner table, this was disgusting, and stop talking about it. It was written by a prosecutor from a southern California county.

I also brought a couple of clips from an article in the Los Angeles Times 2 days ago, some of which was directed at some of the efforts behind this bill. It was called Hug-Hungry Grownups Stumble under Child Abuse Bandwagon.

> Despite heroic efforts by the media and social services agencies to prove otherwise, there is absolutely no evidence that child abuse and molestation are any worse a problem than they were a few years ago when everyone was worried about rape and drunk driving. There is precious little reason to hope that they will be any less of a problem when national attention has moved on again.

This author went on to slam the media and then said:

> The most shameless exploiters of children have been our nation's politicians. There is now a Children's Caucus in the Senate, established on the ludicrous premise that children's interests previously had been ignored. The Missing Children's Act authorizes the FBI to search for children without any evidence that they are gone or have even crossed State lines. A bill called the National Child Protection Act would apply all sorts of nettlesome national regulations to daycare centers.
>
> For politicians and media, the citizenry issues like child abuse serve as a substitute for serious politics. It is a problem, sure, and government should do what it can to help, but it is not a systemic problem like unemployment, public education, or defense. Carrying on about child abuse allows everyone to engage in a mock exercise of civic virtue without engaging in the really great questions of government.

I think this is something we are going to see more of. I think we need to fight like hell against that kind of reaction, because there is a part of all of us, and certainly, a great part of the general public that, in our hearts, really wants this to go away. And if there can be people who can convince us it is really not that bad, it really does not happen that often, all of us want to agree with that. It is like having a child on the witness stand and being a juror and wanting to come up with any other explanation for those scars—maybe she fell on the buckle of her shoe. I like that idea much better than somebody could do this to her.

I do not know if you are familiar with the study out of Canada conducted by the Canadian Government. It turns out to be 1,000 pages long, but I got a little piece of it. The two main findings are boiled down to a sentence. This is a study they did on 2,000 people retrospectively across Canada, on a representative sample, asking them about prior sexual experiences in their lives.

The main findings of the National Population Survey are that at sometime during their lives, about one in two females and one in three males have been the victims of unwanted forced sexual acts. Four out of five of these incidents first happened to these persons when they were children or youths.

So, topping even any studies in America, Canada is finding virtually half of its population to have been molested before the age of 18.

There are two issues I wanted to talk about with regard to the legislation, briefly. One has to do with prosecuting child sexual abuse cases and one has to do with not prosecuting them.

I support virtually every reform in this bill, but I have two thoughts to add to it overall. One is that I hope in consideration of the bill and in the accompanying regulations that would go with such an act, that they will have teeth to them, because I think in order to make this meaningful it is going to take more teeth than what at least appears in the bill. Lots of times, teeth are in regulations. But I used to work here, helping to try to take teeth out of those regulations because it made my job harder, so I know the other side of that.

And I think that if and when those regulations get written, along with teeth, I think they should be written in consultation with the people who do this stuff for a living, who know what the translation of some of the terms in here means, and know how you can get around them if they are not specifically defined.

I agree to some extent with my friend, Bud Cramer, who was just talking about that there are a lot of differences in local municipalities, and people do need latitude to come up with innovative solutions. But I think if you give them too much, and you do not define what kinds of reform you are talking about, you are going to get fluff.

Just as an example an "interagency or interdisciplinary team" is a phrase that gets bandied around this field a lot. It can be a tremendous, dynamic thing, such as what Bud was talking about. It can also be a group of bureaucratic types who meet every other week—we have those kinds of "teams" in Los Angeles—and they can define "interdisciplinary" as one person from this agency that does law enforcement, and one person from this kind of agency

that does law enforcement, and one person from this kind of agency—or, clinicians can do the same.

These kinds of teams need to be the kinds of teams that work on cases. It does not help children to have a bunch of different kinds of professionals, sitting downtown in an office, talking about the difficulties inherent in the field, when they are still being bounced all over town, and there isn't a working team.

The same is true of things like reducing trauma. I sat last night at the symposium, listening to a law professor representing the defense side, saying, we cannot do these radical things like closed-circuit television, hearsay laws, all the things that Debra Whitcomb talked about. But there are substantial, important reforms that we can have. We can rearrange the furniture in the courtroom. This is important. We will allow you to do that. We can have the judges take off their robes. Well, one of the things I wanted to say is go out and talk to children about judges in robes. I talk to children for a living. They think judges are supposed to wear robes; that is what makes them a judge. And all the law enforcement in our area that went to such trouble to go in plainclothes so they would not scare kids—the kids will not talk to them because they do not believe they are cops, and now they are coming in and wearing their guns and uniforms, because the child says, "I have too many secrets to tell a man in bluejeans."

So, that stuff may be defined as reducing trauma. It is not the furniture in courtrooms that traumatizes children. Sure, they should have a chair in which their feet touch the ground. But that is not what I call reduction in trauma.

The same thing is true of coordinating court procedures. It is very difficult when you have different goals—one is to convict, in one court; the other is to protect children, in another court. That is a longtime struggle.

One of the ways I was told that we have solved it in Los Angeles is we are no longer scheduling the two hearings on the same day. That may be what you get in terms of coordinating. That is not what coordinating court procedures means.

My second thought about a lot of these things is just, I guess, what I have learned over the last few years, that all this stuff is a lot more complicated than I used to think it was and than it seems by legislation and papers written.

I have now found myself saying, when I speak at conferences, "You should have caught me 5 years ago; I knew a lot more than I do now. I had a lot of answers 5 years ago, and they all seem to be washing out. And now I know so much less."

But I do know that there are no quick fixes to any of these recommendations, and they need to be tried and tried and tried.

The issues of teams is a problem that we have had. I have worked very closely with the district attorney's office on lots of cases, but particularly on a big case. I am now being called an agent of the district attorney. That is a way that I lose all confidentiality and privilege to all of the files and all the tapes and everything that parents and children say to me, because if you are an arm of law enforcement, you do not have privilege. And we have now had to hire lawyers and go out to battle, to try to establish

that I am not an agent. But the closer you are as a team, and the more you work with them, the more you are subject to that.

The same kinds of problems exist with videotapes. We videotaped in order to prevent children from going through multiple interviews. Perhaps we saved them that level of trauma. Now the videotapes—I smiled when Bud Cramer said, "Our videotapes are not for court purposes; they are for interviewing." Mine were not for court purposes, either. That does not get defined, usually, by the person who makes them. Now they are in court, being played for the children on the witness stand, tapes of interviews they had a year ago, saying that something did not happen at first. And so then, they play these tapes endlessly for the children and say, "Look, you said right there that nothing went inside of you, and now you are saying it did. When were you lying, then or now?"

And the child goes, "uh—uh—I'm not sure."

"Were you lying to Kee, or are you lying to us? Are you lying to the judge? I guess you are a liar, aren't you?"

And eventually, the child will say, "Yes, I guess I was lying."

"So I guess lying is pretty easy for you, and you lied right here on the tape?"

And what is happening is it is prolonging the testimony horribly for these children.

With the videotapes, I tried to save them from other interviews; I am beginning to think the other interviews would be less traumatic than reliving these interviews and having to admit they denied stuff that was true, or they made a mistake. They have their down side.

The same is true on this issue of therapy and preparing children for court. We have a whole program called KICS, Kids in the Court System, which is like a victim witness program, and we go and take kids to court; we do all kinds of mock court sessions. That is all being called "coaching" now; everyone is scared to let us near the children; they are cutting down on victim witness assistance programs that prepared children for court—because when the children go on the witness stand, that is used against them yet again—"What did you do that day you came to court? What did you talk about? Didn't they ask you this, didn't they ask you that?"

So it also prolongs their testimony.

We are learning how to do this in some places, but there is a lot of reinventing the wheel going on. That is partly, I think, perhaps a staff problem at the Federal level, but it is also because there really is a tremendous need for specialists, plunked in one place where everyone else can go.

The American Bar Association Child Advocacy Center has served in that capacity for a long time. I understand they are getting flooded—I know I cannot get through to them on the phone half the time. They are one of the only places. And everyone I know, including myself, was saying, "Call Joe Bogley. If anybody knows, they will know." That has to be reinforced, that effort, because we are all wandering around in this legal quagmire that is treacherous.

Similarly, I think what the National District Attorneys' Association is talking about is really remarkable. I am amazed to see them grab hold of this leadership role. They are getting the flack for a

lot of what is happening in court, that it is their domain; it is prosecutors and lawyers who are the villain in some of the scenarios painted. And I would think that the district attorneys—many I have seen individually—go strongly on the defensive, and instead, they are reaching out there and saying, "Look, we will help make prosecutors better."

I think the idea of them having a center where other prosecutors can go is a really good one. Now, everybody always said, "The last thing we need in the world is another national center on something." And I think that is true, perhaps, of a lot of national centers. I do not think it is true of this one. I think this stuff is so complicated that the money spent on putting the expertise in one place where prosecutors go is a lot cheaper than every single county learning it the hard way, the way we are in Los Angeles.

I think we are all wandering in the same desert, and I feel a really strong need to help other people not learn everything the way I have learned it. If I ever write an autobiography, it is going to be called, "Seemed Like a Good Idea at the Time"—because a lot of things do not anymore, that I have done. And any way that we can keep from having to do that at the expense of more children is important.

I used to see my role as keeping children away from lawyers when I first got into this business—of course, now, I think I see it as keeping myself away from them on the witness stand—but I know that does not work. We have got to work on making each other better. I need to be, and people in my position need to be, better legally-educated. Attorneys need to have more education and help on how to be child-oriented.

If there were a way, for example, for a bill like this to put incentives into professional education that would train social workers and therapists and put some kind of mandate in there for them to learn legal things, and put into law schools information about child development and training on how to talk to children.

I think a second really important point is—as someone else previously mentioned—that we have to stay focused on the percentage of cases we are talking about, or ever will be talking about, with regard to the criminal justice system. I think it is crucial to try to make it better. But I also think we have to face the fact that on the whole, it does not work very well. It is a very toxic environment for children. And it deals with the absolute minimum number of cases. In L.A., there were 10,000 cases of child abuse last year, of which only 480 were ever even entered into the criminal justice system, and 86 percent of all cases presented to the criminal court are rejected, and the majority of them are sexual abuse. Some of that is because they do not want to deal with it, and some of it, I support, because of what would happen to the children. They just are not ever going to be good in this setting. They do not have the attention span, they do not have the verbal skills, they do not have the memory, they are easily intimidated, they have magical thinking, they get attached to abusers, they get easily confused. Some will be able to do it, but a lot of them will not—even with major reforms.

We can do a lot to minimize trauma, but we are never going to change the nature of small kids. And for some of them, we can

wait until they grow up a little older, perhaps, and try it, unless you live in California, when they grow out of the statute of limitations in 6 years. But by and large, I think my overall opinion is it is not a fair fight. It is not a fair fight to pit a 7-year-old against a 45-year-old trained lawyer. I do not care how gentle he is. I do not care how small the chairs are, and I do not care if there are other kinds of people in there to support. It is not often a validating experience for children.

There is a little section of the bill called 4(c), and it has two lines that say "treatment programs." I think that is something that we need to look at very carefully, not just allot $25,000 to some place to keep doing good therapy, but establish treatment programs which help to change what we do with these cases in the criminal justice system. I think that our goals are wrong. I do not think that our overall goal should be getting convictions in child sexual abuse cases through prosecution. And as long as that is the criminal justice goal, we are going to hurt children more, I think.

I think our goal should be getting guilty pleas in criminal court. How do you get guilty pleas? Not the way most places are doing it. You have to have, first of all, better investigation so that you have a case, you have to have something that is concrete; and second, you have got to have options to the consequences of the criminal justice system.

I have worked with lots and lots of perpetrators as well as kids, and I know people—I have seen them—they hate themselves, they are ready to crack, they do not know where to go. But if somebody is facing the loss of everything they have in the world—their family, their home, their kids, their job, and their freedom—with nothing in return except a long-term prison term, and all that loss, and the only option they have to try not to lose everything is to ram some child through the criminal justice system, even if they care about that child, they are going to go for that option. And if a woman is forced to choose between doing that to a man, and putting a child through that, many times, she is going to choose him. And we force our system, we force the parents in these situations to choose, and the children lose in that choice—as opposed to looking at a wide range of options which are being done in some places. We have cities that have various kinds of diversion programs, various kinds of prison treatment programs—I am not talking about putting child molesters who are dangerous on the streets, but if we get so wrapped in our own vengeance and our own sense of "I want to put these people away for life"—we have to look at what they are really getting. They are really getting 3 years, or 2½. I go through 3 years of hell with children to get them through a legal process, and then the conviction results in less time than it took for the child to get to the conviction. And it is not worth it—it is not worth it, a lot of it.

I know that my time is out. I come with a message from a child to Senator Hawkins. He really wanted to come, but I told him I get in enough trouble when I come down here an talk; if he came when he was in the middle of a criminal case——

Senator HAWKINS. Well, we appreciate your taking time to come here Kee. Do not feel rushed. You experience both sides of this,

from the government side and from the therapy side, and now the witness side.

Ms. MACFARLANE. This is—I will just say that he is under 10. And he has been on the witness stand within the last few months, in a criminal case, a child sexual abuse case. And he wanted to write you a letter, but he did not really get it all together, so we kind of did this on the phone, with some help from his mom.

He was on the witness stand under cross-examination for 16 days. That is almost as long as I was on, and I was sick afterwards. He held up, I think, better than I did. But I point it out to say that he knows what he is talking about. He has been on the witness stand more than most anybody has ever been in a courtroom.

I asked him about the worst parts and the best parts of that experience, and he wanted to tell you about that. He said the worst part was walking into the courtroom and having to see the person that hurt him the most. He did not think he was going to be able to walk to the chair. He got frozen. And then he was afraid when he got there that he would not be able to talk.

He wanted to tell you they asked the same questions over and over and over, and he does not understand why people are allowed to do that; is it because they did not believe him, is it because they were trying to get him to change his answer, or they want a different one—but they all would ask the exact same questions.

He said he did not like the way they raised their voices at him; they sounded mad, they sounded mean, and they yelled at each other, too, which was just as scary as when they raised their voices at him.

But he said even worse than that was when the lawyers made faces at him and snickered, and made fun of his answers. That was the only time he broke down in 16 days. He went in the back room and cried, because he felt he was being made fun of.

And then finally he said why does it have to take so long. It is the length of time.

I asked him if he could tell you any good things about it, because we keep hearing about the therapeutic experience that this is. And he said, well, really, at first, there was a good part of it, and that was getting out of going to school. He really thought that was the best part of all until, after a couple of days, he realized that there is something that is worse than school and homework—and this is it.

He said the worst part of all was walking in, and the best part of all was walking out on the last day, and the very worst part of all is the idea that he may have to go through it all over again if it goes to trial in front of a jury.

Here is the part of his letter that he had written, and this is directly to you, Senator.

> I wanted to tell about how terrible it is in those courtrooms, because I want you to make it better in there for other kids. And I wanted to thank you for telling people about going to court when you were a little girl. Even though they didn't believe you then, you turned out pretty good, and that's important.
>
> But I have to tell you that I think the court has gotten worse since then, even when you were a kid, because now they have more lawyers.
>
> But now that you are an important person, people believe you when you tell them what it is like, and maybe if some of us grow up to be important, someday they will believe us, too.

I hope that these kids do not have to grow up to be important in order to get believed, and I think that some of what this bill and this kind of effort is aimed at can help with that. There cannot be a few people running around the country saying this is a terrible problem. It has got to get down to the level of the people who deal with it.

My agency has a treatment program in my center called SPARK. It stands for Support Program for Abuse-Reactive Kids. These are all child molesters, and they are all under the age of 12. I have three 4-year-olds. My biggest group is girls. And I also have their victims in another group. One of the victims, who almost had to be surgically stitched together after oral sex from two girls and a boy under the age of 10, is 16 months old. The kids in this program—one of the most frightening things happened 2 weeks ago, when I asked them what changed in their lives after they had molested other kids—their nightmares that started when they got abused stopped when they started abusing other children.

I have nothing to offer them as reinforcing as that. I cannot make their nightmares go away. They can make their nightmares go away by taking on the role of the abuser and harming someone smaller, because I guess it makes them feel more in control and more powerful.

This stuff is very scary. I have never seen such a disturbed group of children. But I think that getting treatment for these kids, and treatment for them when they grow up, as well as coupling with prosecution that is more humane, is important. In conjunction with what some of the parents from Florida were saying this morning, I think we have to plow ahead with what we see is good for children, regardless of what they say, whoever "they" may be—my friend on the newspaper or defense attorneys. It is not hard for me to see what is good for kids. Therapy is essential for kids who are molested. They will always say that you should not do it, because it is coaching, because it will hurt the case. If prosecutors buy into that, they are not in this for children, either.

We will all go under if we start tuning our policies and our approaches to children according to what the defense might say in a criminal case. And I think that is happening around the country. I see the prosecutors and the police even that I used to work with very closely, drawing back; everyone is getting scared. What will they say? They will say that we coached, they will say that we are an agent.

All we have to do is keep fighting for what is good for kids.

Professor Stanley, whose most famous quote was probably, "Dr. Livingston, I presume," gave a second quote, which I think applies to all this, and that is, "Never change your course for the barking of dogs." And I think we cannot afford to do that in child abuse. The dogs will bark harder and harder as they get more sophisticated on how to butt up against the new reforms and new techniques we are talking about. We needn't change our course for them, either.

Thank you.

Senator HAWKINS. Thank you, Kee.

You might tell your little friend that I used to be afraid of dogs, but now they run from me. But it took a lot of training.

I know of no one that could give us better input on this bill. And, as you have told me many times, we need representatives for children. I have been coached as a politician not to get involved with kids; they do not vote, they do not have a PAC, and in the end, it can harm your career. But my career first has been one to take care of children, and I hope that America will be a better place because you cared, and all of our witnesses cared, and indeed, we will have a better world after we have addressed the needs of the children, the most vulnerable part of our population, and the least-represented.

Thank you very much.

[Additional material supplied for the record follows:]

SEXUAL EXPLOITATIION OF CHILDRREN AND YOUTH

Presented at the Joint Meeting of the

American and Canadian Academies of Child Psychiatry

on

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by

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Sexual exploitation of children and youth is a subject that elicits great indignation yet suffers from a great lack of accurate information. The concern has always been there with regard to sexual acts against children which are regarded as among the most offensive that can be perpetrated. Nevertheless, it is only recently that the public conscience and attention have been aimed specifically at this area and efforts have been mounted to alleviate the plight of the individuals and upgrade the state of the services despite which in this day and age these events continue to occur.

The lack of information is a major factor that impedes the development of a concerted approach to this problem and also handicaps measurement of the effects of intervention, be they legal, social or medical. While the field has attracted periodic attention the interest of professional groups has focussed on specific problems, such as exhibitionism, voyeurism, sadism and other forms of sexual deviance with the attention being directed primarily towards the perpetrator than the victim. The information is valid. It is not comprehensive. It takes a blinkered view of part of the problem and leaves this part unrelated to the overall picture.

When the Federal Departments of Justice and of Health and Welfare in Canada appointed the Committee chaired by Dr. Robin Badgley, it was deliberately chosen to represent the divergent and varied view points regarded, and in retrospect essential, to an examination of this problem from the multifaceted point of view and to therefrom derive solutions more likely to be implemented. The Committee included judges, lawyers, social-workers, physicians and representatives of the public in general. The mandate to the Committee was three fold. It was to document the extent of child sexual abuse and to recommend how young victims could be better protected. It was also asked to consider how juvenile prostitution could be prevented and to determine the extent of the making of child pornography and the accessibility of pornography to children. While the latter two parts of the mandate were initially looked

on by the Committee as auxiliary to the main thrust of its investigation, similar methods of enquiry and of approach turned out to be equally fruitful in both latter areas.

The Committee's mandate then was to be concerned with the victim when the victim was a child and with the services available to help, the use of these services, how effectively they were deployed and the interaction of the various parts of society that have concerns about this but at times seem unable to coordinate their efforts.

In its initial stages the Committee revieved available knowledge and information, previous reports in Canada and from other countries and determined that one of, if not its top priority, was to develop a data base from which conclusions could be derived and in that way to fill a gap that, despite the best efforts, exists in these other submissions. The Committee sought information from a wide variety of sources. It met with concerned groups, and received 253 written briefs and submissions. The Committee approached and received in virtually every case extensive support in its investigations from voluntary organizations, federal, provincial and municipal public services and experienced professionals and administrators. It was this willingness to cooperate in a way which transcended provincial and federal boundaries that made possible the assembling of comprehensive research information that the Committee was able eventually to engender.

The research that the Committee itself sponsored included a review of the criminal and civil law and several national surveys;

1. Population survey of 2008 persons in 210 communities in Canada.
2. 28 police forces in 10 provinces and in the Yukon (60 were the sexual offence cases investigated)
3. Child protection services in 10 provinces and in the Yukon (1438 children)
4. Health services - 11 hospitals from 8 provinces (623 children)

5. Publicity - 34 newspapers across Canada.
6. All dangerous sexual child offenders (63)
7. Juvenile prostitutes in 8 cities across Canada (229)
8. Seizure of obscene and pornographic materials across Canada by Canada Customs and R.C.M.P. (in excess of 26,000 items)
9. The display of pornographic materials in retail stores across Canada.

Other research included a review of special community services and medical treatment programmes, comparison of different child protection services and intervention strategies; a commissioned study on the genetic risk of incest; children with sexually transmitted diseases; children who were given compensation by the Criminal Injuries Compensation Board; enquiry into the identification of victims in cases that were heard before the courts; review of child sexual assaults, homicides; federal, provincial and municipal enforcement practices in relationship to the control of obscene and pornographic materials; the classification system used by provincial film boards, content analysis of 11 pornographic magazines; pornographic magazine circulation and the statistics of the purchase of pornography.

This research endeavour is listed solely for the purpose of indicating the variety, the quantity of the information and the comprehensiveness with which this enquiry addressed its three fold task.

What then were the main findings of this research effort?

THE EXTENT OF THE PROBLEM: - The Committee found that:

1. At some time during their lives one in two females and one in three males are victims of one or more unwanted sexual acts. These acts include being exposed to, being sexually threatened, being touched on the sexual parts of the body and attempts at assault or being sexually assaulted.

2. About four in five of these unwanted sexual acts have been first comited against these persons when they were children or youth.
3. Four in 100 young females have been raped.
4. Two in 100 young persons have experienced attempts or actual acts of unwanted anal penetration by objects or by a penis.
5. Acts of exposure constitute the largest single category of sexual offences comited against children. A minor but significant proportion of such acts were followed by sexual assault on the child victim. In the National Population Survey, of those who reported being exposed to when 15 years or younger, 4.3% of the males and 7.8% of the females said that this act had been followed by sexual assault.
6. Three in five sexually abused children had been threatened or physically coerced by their assailants. Young victims are as likely to be threatened or forced to engage in sexual acts by persons relatively close in age as they are by people who are much older in age.
7. Few of the victims of sexual assault are physically injured. The emotional damage however occurs in a much more significant proportion, particularly if the accounts provided to the Commission by individuals are to have the validity that we usually accord to case studies.
8. About one in four assailants is a family member or a person in a position of trust; half are friends or acquaintances; only one in six is a stranger.
9. Virtually all of the assailants are male; only one in a 100 is a female.
10. The majority of victims or their families do not seek assistance from public service. When they do, they turn most often to police

or physicians.

11. Over two in five of all the sexual assault homicides are commited against children age 15 and younger. In cases of convicted sexual offenders in prison found to be dangerous on sentencing by court, their victims in three of four cases were children.
12. Alcohol and drugs are not major contributors to these offences.

The conclusions from these surveys, including cross comparison between the information obtained from different sources, clearly lead to the conclusion that child sexual abuse occurs extensively and that the protection presently afforded young victims by the law and by public services is inadequate. To address these the Committee made a number of recommendations based on these findings and in doing so all the recommendations were made unanimously.

The first of these recommendations, derived out of a review of previous efforts to accomplish substantial change. As the results of earlier distinguished advisory commissions had never been implemented, it was regarded as essential, in order to bring about the reforms needed, to have an administrative mechanism to coordinate the efforts at the federal, provincial and municipal levels, as it was felt unlikely that present structures in place could accomplish this alone.

The recommendation was that an Office of the Commissioner be created, reporting directly to the office of the Prime Minister, with the responsibility to review and to initiate and coordinate efforts towards the reforms that the Committee has suggested. This would include the allocation of budgetary allowances, availability of research monies and an overview function in terms of research activities in these areas in order to avoid the dispersion of research dollars in the haphazard shot gun, uncordinated and unidisciplinary fashion that has led to rather unproductive work in this field when it is viewed as an interacting system. The extent of the problem and the degree of public concern

and the need for coordinated change seemed ample justification for suggesting this high profile approach that at least carried some guarantee of effective action particularly when multiple jurisdictions, disciplines and systems were involved.

The second recommendation, and it is deliberately put upfront, is education for the protection of children. A national programme of education needs to be undertaken so that children and youth may be better informed of how to protect themselves from the risk of sexual abuse and if they have been subjected to it, to know how and where they can appeal and seek for help. This is not designed to terrify children. It is to prepare them for the reality which the Commission in its findings adequately documented as presently existing.

A substantial proportion of the report devotes itself to changes in the Criminal Code. The Committee found, for example, that the wording of several offences in the criminal code is vague. It permits then charges to be laid for the same behavior in different situations under different sections of the criminal code, each of course having different penalties. It further found that the existing system of penalties is both irrational in its structure and in its application. For example, for sexual offences carrying higher penalties, the sentences imposed were proportionately shorter than those imposed in cases of offences having shorter maximum sentences. Even when similar types of sexual acts had been commited the lengths of sentencing varied widely. The Criminal Law Reform ammendments recommended include widening the range of relationship to prohibit sexual touching by persons in the position of trust to the young person. This includes foster parents, step parents, baby-sitters, workers in day care programmes, who up to now have fallen in an ambigous legal area. The Committee recommended retaining and amending the prohibition against incest, introducing an offence against inviting sexual touching by children and placing the prohibition against intercourse with children under the age of 16 and sexual

intercourse with girls under that same age.

In making its recommendations for legal reform, the Committee recommended that the age of sexual autonomy be made consistent with the age at which most other legislation recongizes the independence of the relatively mature individual and suggests that the age of say 18 be that which apply to males and to females for any sexual acts commited in private and with consensual agreement.

The Committee addressed itself to some problems that applied to the giving of evidence by children in courts. There has been the doctorine of corroboration in which the young person's word alone is at times regarded as insufficient evidence on which to base a conviction. The Committee in its deliberations and research found that young children are no more prone to giving vague accounts to the police or to older children; that young children are capable of speaking effectively on their own behalf and in the vast majority of cases reported to police and physicians their accounts were believed. Assessment made by child protection workers concerned with cases in which children had been involved in legal proceedings, did not indicate that the children had experienced any serious or lasting harm from the court procedures. The Committee felt there should be no special rules with respect to the child's legal competence to give evidence in court and that the child's evidence be received and considered in the same light as that of adults.

Accordingly the need for corroboration which would suggest that young people are intrinsically less trustworthy than older victims was not accepted by the Committee and its abolition was recommended. The initial statements made by the child about the incident often constitute the most cogent evidence but can in courts of law be excluded as following the heresay rule. The Committee felt very strongly and recommended that such out of court statements made by the young child should be considered as admissable evidence and as an exception to the heresy rule on a case by case basis. The intention here is clearly to

strengthen the opportunity for courts to have available to them and to be able to use information from what is often the primary source, namely, the child who has been abused and to debunk the patronizing idea that children are intrinsically less truthful than adults, particularly when evidence from this and from other sources would suggest that perhaps the opposite if anything is the truth.

A minor but important concern in the legal area was the degree to which published reports, while supposed not to reveal the identity of the child, might inadvertently or by adjunctive evidence make this available. The findings here were surprising in their commendable restraint. Of 2806 news articles in 34 Canadian newspapers, in only 11 was the identity of the victim given or could be adduced by other identifying information. However, cases particularly, if they go on to appeal courts, are frequently written up in legal reporting services and in the latter it was clear there was a substantially increased risk of the child's identity being disclosed. This practice was regarded by the Committee as unacceptable and the recommendation was that it should cease.

Let us turn to the question of the provision of services. Overall it is clear that a number of problems are inherent in this area. These services are mounted under different jurisdictions and under a broad assortment of national and community and voluntary associations. Each of the main helping services has developed somewhat different concepts of child protection, different means for assessing and investigating the needs of young victims, different standards of determining how assistance can best be provided and different ways of providing such help. As a result many sexually abused children either receive no assessment or their needs are only partially and inadequately considered. Many, because of this, are left in positions of continuing risk. The committee believed that a combination of measures is required including publicizing widely the work of special programmes and particularly programmes that are developed and are tailored to the Canadian scene, the adoption of common minimum standards

between services for the assessment, investigation and treatment of sexually abused children, significant change in child welfare legislation and the current operation of child abuse registers and refined development of medical examination protocols.

Research into the operation of protective services revealed the following: Half of the intial assessments were not undertaken within 48 hours of notification; one third were not completed within a week; only half of the children were reported to have been medically examined; Beyond contacts with police and doctors, other helping services were also contacted in only a small proportion of the cases; Interviews were held by workers on the average with three in four victims, seven in ten mothers, less than half of the fathers, less than half of the suspected offenders and about two in five of the child's brothers or sisters. Lastly children who had been victims of serious sexual assault were as likely to remain in their homes with the offender as to have physical separation and the protection therefrom. There was no relationship between the removal of suspected or known offenders and the gravity of the sexual offences they had committed.

While there is continuing debate with regard to the value or alternative of the legal system, and because there is no information which can allow an objective evaluation of the claims and counterclaims of different systems of intervention, it was found in the research that where legal charges where laid the following differences were apparent.

Initial assessments were more promptly undertaken, more children received medical examination; there was broader consultation with other helping services; more interviews were held with victims; their mothers and other children in the family and more victims were counselled and treated. These facts and these facts alone would argue strongly for what has been advocated in a number of quarters. The approach to protecting children from sexual abuse is strengthened by the involvement of the legal system and of its availability

should it be required to compel compliance or, in circumstances that do not allow this, to go the route of legal sanctions.

Child abuse registers are part of the protection system and were designed to identify particularly those liable to commit such acts and to track them in a highly mobile society. However, in looking at the use of registers, the Committee found that:

(1) A sizeable proportion of cases of sexual assault known to the police, physicians or child protection workers were not reported to the abuse registers.

(2) Proportionately more perpetrators of minor rather than serious sexual acts were reported to the registers.

(3) Child protection workers had consulted the registers in only one of five cases of suspected child sexual abuse that they had open on their books.

(4) Several provinces with registers had no formal procedures with respect to the periodic review of cases listed in the files.

The alternatives in the Committee's opinion were clear. Either registers become more effective means of identifying abuse or they be scrapped in favour of alternatives which are effective.

In this area of services one general but very important comment. Different services, dealing with the same problem have different ways of collecting, collating and reporting information. Most of the services look at it from their particular point of view. The information is then not of a comprehensive nature and makes cross comparison between systems inordinately difficult. None of the existing reporting mechanisms provide for an accurate listing of information in accordance with the specific sexual offences in the criminal code. Information is available but is not comprehensive and takes enormous amount of time to obtain. This constitutes a barrier to the effective

documentation of the nature and adequacy of the protection afforded by existing services or the benefits that might accrue from amendments to the criminal law, to protection legislation and to the practice of agencies involved. All the official reporting systems need to come to some standardized agreement and part of the mandate of the office of the Commissioner would be to implement steps towards this end. The Commission in its own work has laid substantial ground work in terms of the great detail protocols it developed. For the various purposes, the implementation of these would probably not require additional time or if it did, this could well be covered by an appropriate item of specific remuneration. For example, in the medical system there already exists a special premium payment for the examination of rape case. A similar premium payment for the time involved in doing a detailed reporting of the physical and emotional harms and of the necessary examinations would be a simple matter to develop and implement.

With regard to research in this area, most research in Canada, and in the United States, represents the work of single disciplines. This has led to excellent but fragmented and unrelated bodies of research. The available research for Canada in sexual offences is seldom accurately detailed about many of the main social, medical and legal issues, such as the ages and sexes of the victims, the sexual acts commited, the injuries sustained, and the types of association between victims and offender. The Committee was led to the firm conclusion that with respect to the operation of the criminal law, protection services and services for child abuse, that vigorous, independant and multidisciplinary research review procedures must be adopted in relations to studies pertaining to sexual offences. The area of sexual abuse is sufficiently diffuse and is dealt with by such a variety of agencies, all of them having a partial investment in the field that services can only be improved by coordinating the integration of these findings. Similarly research can only be valid if coordination is required and enforced on those who would undertake work

in this field.

Let us turn briefly to the second part of the Committee's mandate - Juvenile Prostitution. The story of juvenile prostitution is one of sheer unmitigated tragedy. These youth are the cast offs of society . About one half of the juvenile prostitutes came from "broken homes". Two in three have completed less than one year of high school. Three in four had run away from home at least once, some many times before turning to prostitution. This indeed may be an important indicator that can no longer be neglected in young girls as an early warning sign that they are susceptible to drifting into a life on the street.

1. Young prostitutes came from families in all walks of life.
2. Some but a minority had been sexually abused as children. but the figures were no different with regard to those who became juvenile prostitutes from those of other Canadian children.
3. Most had no or limited conventional job skills or work experience.
4. One half of the juvenile prostitutes had turned their first trick when they were age 15 or younger. Most said they had done so because they could earn money easily.
5. One in four was a frequent and heavy user of alcohol and one in three similarly used drugs.
6. One third did not routinely seek medical attention and the majority had at least once contracted a sexually transmitted disease.

Life on the street may be "a way of making a lot of money easily"; unfortunately, the penalties are severe and the particular role played by the pimp is among the most vicious and exploitative anywhere in our society. The earnings of the juvenile prostitute may be good. Most become involved with

pimps who take most of the money and maltreat the girls in return. The pimps repay about one seventh of what the prostitutes earnings are. Four in five girls who work for pimps had been beaten and in some cases seriously injured by the pimp. The Committee felt that to deal with this tragic situation, one required a multipronged approach including; (1) Education aimed at deglamourizing the life on the street. The prostitutes interviewed indicated that the time for action either before or at very early stages of street involvement reflected great pessimism about rehabilitation as indeed did the helping services who had tried. The physical, mental and emotional risks associated with the street life should be known and widely publicized. Social services had been in contact with many of the youth but the contacts had been infrequent or sporadic or more designed to seek such assistance as medical care in order to continue their work. The programmes that had been set up and that might then be expected to assist are largely mistrusted, regarded as useless or are ignored. With regard to legal involvement one in three of the juvenile prostitutes had been before a family or social welfare court. Two in five had been found delinquent by a juvenile court. One in seven had been charged at least once for soliciting and with on the average 1.3 other offences.

The Committee recognised the difficulty of rehabilitating youth from the street but felt that there had to be stronger mechanisms available to require the involvement, particularly at an early stage, of these individuals in potentially helpful programmes and to try to give the programmes time and opportunity to develop alternative life styles for the young people.

Accordingly, the Committee has recommended (2) the development of a specific summary conviction offence prohibiting children and youth from engaging in prostitution. This, taken in conjunction with (3) a similar prohibition against those who solicit sexual favours from juveniles, constitutes the complimentary approach to this problem and is intended to send the message clearly that juvenile prostitution has no place in this society. Further, the

Committee felt strongly that (4) the publication of the names of persons convicted of soliciting young prostitutes would serve as a strong contributory deterent. Information given by these young people with regard to their customers for whom they have in most cases the most royal of contempt, indicates that because of their customers' positions in society and family life that they would not wish to have their identities known publicly as those who use the sexual services of juvenile prostitutes.

(5) Finally in reference to the conduct of the pimps, this was felt to be such a parasitic relationship as to constitute exploitation of the worst kind, that the sternest criminal sanctions should be available and should be employed for those who chose to make their living on the avails of juvenile prostitution.

The Committee, had as I mentioned at the beginning, also been asked to look into the question of child pornography and its production. The Committee found that the commercial production of child pornography within Canada is virtually non existent. Attempted ventures have been small, without exception unsuccessful and relatively promptly identified by enforcement services. The two sources then of child pornography in Canada are its importation by means of smuggling or by means of the postal system and individual production for private purposes and small group exchanges. The Committee felt that the production of child pornography in itself constituted clear sexual abuse of young people. It constituted a permanent record of the child's sexual exploitation and the harm and humiliation to the child was exacerbated by the circulation, distribution or sale of such material. The Committee also identified a real concern and that is the use of child pornography by adults with paedophilic tendencies to persuade other children to engage in similar conduct and, therefore, to become further victims of sexual abuse. The Committee recommended that the legislation be amended to make specific the kinds of depiction that were to be forbidden if the individual was under the age of 18 or appeared to be so, strengthening federal

enforcement against the importation of child pornography and the creation of offences for the production, distribution or possession for the purpose of sale of this kind of material, containing visual representations of children and youth involved in explicit sexual conduct.

The Committee looked at the access that children had to pornographic material in various outlets in Canada and in its survey of this area obtained information that 540 different pornographic magazines were being sold across Canada. In examining single issues of the 11 nationally distributed magazines, for a Canadian distribution of 14 million copies a year, it was discovered that there is a progression from the photographic material in the magazines to the text to advertisements involving the depiction of children and youth. 10 percent of the sexually oriented advertisements featured children and youth. Over three in four persons in the National Population Survey who did not oppose pornography altogether felt that only persons aged 18 or older should be permitted to purchase such material. The Committee felt that pornography should not be accessable to children under 16 and that those who so make it should be guilty of an offence punishable on summary conviction; That the display of pornographic material should be covered except for the title and displayed at levels which are above those usually available, particularly to young children. It was also felt that the present approach of trying to use municipal legislation would not be successful and that this required a national approach and agreed standards if there were any likelihood that it was to be enforced.

In summary, the Committee found that sexual abuse is unfortunately even more wide spread than the previously available figures would have suggested; that it involved a substantial proportion of young children in the course of their growing up; that neither the legal nor the protective services afforded the kind of protection for young people against these acts that it desired or intended by the legislation. The Committee in its recommendations may have at times seemed to be draconian but in these recommendations is suggesting that a

strong message be sent by the society to its members, that behavior which involves the exploitation of children be it directly, through depiction, through the toleration of young people in prostitution constitutes a violation of the standards of our society and acts that will not be tolerated. By clear definition of what will not be tolerated the Committee sought to clarify what society is prepared to accept and is not prepared to accept and the sanctions that will be imposed for infringement of these rules.

With regard to protection and treatment services the need is for integrated, much more systematized ways of approaching the problem of the child who has been sexually abused from a number of complimentary viewpoints, for the collection of statistics in a standardized way across several different systems and jurisdictions and for the careful monitoring of changes and developments. In particular the protection that is being provided is clearly inadequate. The long term effects are not clearly known although from case reports and from the submissions by individuals to the Commission, there can be no doubt that many feel and firmly believe that these events long in their past have had an indelible impact on their whole life. While the long term effects of these acts and of different acts on different children is one of the challenges for research, the general message is clear. This abuse of power and abuse of positions of trust leads in the child to guilt, a sense of betrayal, loss of self esteem and long term serious emotional rather than physical harm. In each of our societies and in our daily work, we come in contact with cases in which this has been true, either as we are directly concerned with today's victims or as we are concerned with people who have been victimized in the past. This will not be a simple problem to solve but its gravity demands a concerted approach to reformed law, protection and other services. Despite the difficulties we must address ourselves on a national basis to afford the protection that children expect and to which they are unequivocally entitled.

Senator HAWKINS. The hearing is now adjourned.
[Whereupon, at 1:07 p.m., the subcommittee was adjourned.]

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